

7 October 2015

Fitzroy Resources Ltd – Lodgement of Bidder's Statement

The Board of Fitzroy Resources Ltd (**Fitzroy** or the **Company**) advises a copy of Fitzroy's Bidder's Statement is attached in relation to the Company's proposed merger with 4D-S Limited, which was announced to the market on 13 August 2015.

The Bidder's Statement was lodged with ASIC earlier today.

For and on behalf of Fitzroy Resources Limited

Riccardo Vittino

Director.

Tel: +61 8 9481 7111

-Ends-

THIS IS AN IMPORTANT DOCUMENT WHICH YOU SHOULD READ CAREFULLY. IF YOU ARE IN ANY DOUBT AS TO HOW TO DEAL WITH IT, PLEASE CONSULT YOUR FINANCIAL OR OTHER PROFESSIONAL ADVISER.

**Fitzroy Resources Ltd
(To be renamed 4DS Memory Limited)
(ACN 145 590 110)**

Bidder's Statement
in relation to Offers by Fitzroy to acquire
ALL of your Ordinary Shares and ALL of your Preference Shares in
4D-S Limited (ACN 124 234 395)

Consideration offered is:

110.4400015 Fitzroy Ordinary Shares and 20.5905086 Fitzroy Class 1 Performance Share for every one 4DS Ordinary Share you own; and

110.4400015 Fitzroy Ordinary Shares and 20.5905086 Fitzroy Class 1 Performance Share for every one 4DS Preference Share you own.

The Offers are dated 8 October 2015 and will close at 5.00pm (WST) on 19 November 2015, unless extended or withdrawn

The directors of 4DS have publicly announced that they *unanimously recommend* you accept the Offers (in the absence of a Superior Proposal)

Important Information

Bidder's Statement

This document (**Bidder's Statement**), dated 7 October 2015, is issued by Fitzroy Resources Ltd (ACN 145 590 110) under Part 6.5 of the Corporations Act in relation to off-market takeover offers by Fitzroy to acquire all 4DS Ordinary Shares and all 4DS Preference Shares and sets out certain disclosures required by the Corporations Act.

A copy of this Bidder's Statement was lodged with ASIC on 7 October 2015. ASIC takes no responsibility for the contents of this Bidder's Statement.

Investments Risks

There are a number of risks that may have a material impact on the value of the Offers, the future performance of the Merged Entity and the value of Fitzroy Securities. These are described in Section 9 of this Bidder's Statement.

Foreign Jurisdictions

The distribution of this document and the making of the Offers may be restricted by the laws or regulations of foreign jurisdictions. Persons who come into possession of this Bidder's Statement should seek advice and observe these restrictions.

The Offers are not being made, directly or indirectly, in or into, and will not be capable of acceptance from within, any jurisdiction, if to do so would not be in compliance with the laws of that jurisdiction.

No action has been taken to register or qualify Fitzroy or to otherwise permit the offering of Fitzroy Consideration Securities outside Australia and New Zealand. Outside Australia and New Zealand, this Bidder's Statement may only be distributed to existing 4DS Shareholders resident in Hong Kong, Singapore, United Kingdom and United States of America. See Section 10.15 for further information.

This Bidder's Statement has been prepared having regard to Australian disclosure requirements. These disclosure requirements may differ from those of other countries.

This Bidder's Statement is not a New Zealand prospectus or an investment statement and has not been registered, filed with or approved by any New Zealand regulatory authority under or in accordance with the Securities Act 1978 (New Zealand) (or any other relevant New Zealand law). This Bidder's Statement may not contain all the information that a prospectus or an investment statement under the New Zealand law is required to contain.

The only members of the public in New Zealand to whom Fitzroy Consideration Securities are being offered to under the Offers are 4DS Shareholders. The Offers are being made in New Zealand in reliance on the Securities Act (Overseas Companies) Exemption Notice 2013 (New Zealand).

Disclosure Regarding Forward Looking Statements

This Bidder's Statement includes forward-looking statements that have been based on Fitzroy's current expectations and predictions about future events, including Fitzroy's intentions (which include those set out in Section 7). These forward-looking statements are, however, subject to inherent risks, uncertainties and assumptions that could cause actual results, performance or achievements of Fitzroy, 4DS and the Merged Entity to differ materially from the expectations and predictions, expressed or implied, in such forward-looking statements. These factors include, among other things, those risks identified in Section 9.

None of Fitzroy, its officers, nor persons named in this Bidder's Statement with their consent or any person involved in the preparation of this Bidder's Statement makes any representation or warranty

that (express or implied) any forward looking statements will occur. The forward looking statements in this Bidder's Statement reflect views held only at the date of this Bidder's Statement.

Disclaimer Regarding 4DS and the Merged Entity Information

In preparing the information relating to 4DS and the Merged Entity contained in this Bidder's Statement, Fitzroy has relied on publicly available information relating to 4DS and information provided by 4DS management which has not been independently verified by Fitzroy or its Directors. Risks may exist in relation to 4DS (which will affect the Merged Entity) of which Fitzroy is unaware. If any material risks are known to the directors of 4DS, they must be disclosed in the target's statement to be issued by 4DS.

Accordingly, subject to any applicable law, Fitzroy makes no representations or warranties (express or implied) as to the accuracy and completeness of such information.

Further information on 4DS may be included in 4DS's target's statement which 4DS is required to provide to all 4DS Shareholders in response to this Bidder's Statement.

Value of Fitzroy Securities

The implied value of the Offers will vary with the market price of Fitzroy Ordinary Shares. Further information on the implied value of the Offers is contained in this document. Before accepting the Offers, 4DS Shareholders should obtain current quotes for Fitzroy Shares from their financial or other professional adviser.

In addition, all references to the implied value of the Offers are subject to the effects of rounding.

Investment Advice

This Bidder's Statement does not take into account the individual investment objectives, financial situation or particular needs of each 4DS Shareholder (or any other person). You may wish to seek independent financial and taxation advice before making a decision as to whether or not to accept the Offers.

Privacy

Fitzroy has collected your information from the registers of 4DS for the purposes of making the Offers and administering your acceptance over your 4DS Shares. Fitzroy and its share registry may use your personal information in the course of making and implementing the Offers. Fitzroy and its share registry may also disclose your personal information to their related bodies corporate and external service providers and may be required to disclose such information to regulators, such as ASIC. If you would like details of information about you held by Fitzroy, please contact Fitzroy at the address set out in the Key Contacts Section.

Defined Terms

A number of defined terms are used in this Bidder's Statement. Unless expressly specified otherwise, defined terms have the meaning given in Section 12.

Internet Sites

Fitzroy and 4DS each maintain internet sites. The URL location for Fitzroy is www.fitzroyresources.com.au and for 4DS is www.4-d-s.com. Information contained in or otherwise accessible through these internet sites is not part of this Bidder's Statement. All references to these sites in this Bidder's Statement are for information purposes only.

Estimates and Assumptions

Unless otherwise indicated, all references to estimates, assumptions and derivations of the same in this Bidder's Statement are references to estimates, assumptions and derivations of the same by Fitzroy

management. Management estimates reflect, and are based on, views as at the date of this Bidder's Statement, and actual facts or outcomes may materially differ from those estimates or assumptions.

Effect of Rounding

Figures, amounts, percentages, prices, estimates, calculations of value and fractions in this Bidder's Statement may be subject to the effect of rounding. Accordingly, the actual figures may vary from those included in this Bidder's Statement.

Currencies

In this Bidder's Statement, references to "Australian dollars", "AUD", "\$", "A\$" or "cents" are to the lawful currency of Australia.

This Bidder's Statement may contain conversions of relevant currencies to other currencies for convenience. These conversions should not be construed as representations that the relevant currency could be converted into the other currency at the rate used or at any other rate. Conversions that have been calculated at the date of this Bidder's Statement (or any other relevant date) may not correspond to the amounts shown in the historic or future financial statements of Fitzroy or 4DS in respect of which different exchange rates may have been, or may be, used.

Maps and Diagrams

Any diagrams and maps appearing in this Bidder's Statement are illustrative only and may not be drawn to scale. Unless stated otherwise, all data contained in charts, maps, graphs and tables is based on information available at the date of this Bidder's Statement.

Director's Letter

7 October 2015

Dear 4DS Ordinary Shareholders and 4DS Preference Shareholders

On behalf of the Directors of Fitzroy Resources Ltd (**Fitzroy**), I am pleased to enclose an offer to acquire all of Your Shares in 4D-S Limited (**4DS**).

By accepting Fitzroy's offers you will, subject to the terms and conditions of the Offers,

- (a) 110.4400015 Fitzroy Ordinary Shares and 20.5905086 Fitzroy Class 1 Performance Shares for every one 4DS Ordinary Share you own (**Ordinary Share Offer**); and
- (b) 110.4400015 Fitzroy Ordinary Shares and 20.5905086 Fitzroy Class 1 Performance Shares for every one 4DS Preference Share you own (**Preference Share Offer**).

The Board of 4DS has publicly recommended all 4DS Shareholders accept the offer, in the absence of a Superior Proposal being received. 4DS's Directors have publicly stated that they will accept the offer in respect of their individual holdings in the absence of a Superior Proposal emerging.

For more information on Fitzroy please see Section 3 of the Bidder's Statement. The Directors of Fitzroy believe that the creation of the Merged Entity will provide a wider pathway for value creation through a well-funded company that is listed on the ASX.

In conjunction with the Offers, Fitzroy will seek to raise at least \$2.25 million at an issue price of \$0.025 per Fitzroy Ordinary Share under a full form Prospectus (**Prospectus Offer**). The Company may accept oversubscriptions of a further \$500,000 under the Prospectus Offer.

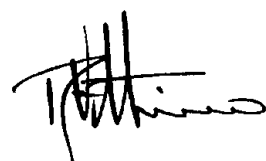
The Directors consider that the creating of the Merged Entity is compelling, and has the potential to create additional value for shareholders of both companies. The important reasons for recommending the Offers are that the Merged Entity can provide greater liquidity to the securityholders of 4DS, increase its cash reserves, increase the prospects of developing 4DS's ReRAM technology, and increase its ability to raise additional capital as required.

The funds available to 4DS will provide funds for research and development activities including pursuant to the agreed scope of work under the Joint Development Agreement.

I encourage you to read this important document carefully. The Offers are open for acceptance until 5.00 pm (WST) on 19 November 2015, unless extended. If you wish to accept the Offers, you should follow the instructions on the relevant Acceptance Form enclosed.

If you have any questions about the Offers, please contact Fitzroy on +61 8 9481 7111, or your professional financial adviser.

Yours sincerely



Riccardo Vittino
 Director

Key Dates

| | |
|--|-------------------------------|
| Execution of Bid Implementation Agreement and Announcement of Offers | 13 August 2015 |
| Notice of Meeting sent to Fitzroy Shareholders | 21 September 2015 |
| Date of this Bidder's Statement | 7 October 2015 |
| Date this Bidder's Statement is lodged with ASIC | 7 October 2015 |
| Record Date | 7 October 2015 |
| Date of Offers | 8 October 2015 |
| Prospectus Offer prospectus lodged with ASIC (indicative) | 12 October 2015 |
| Date of Fitzroy Shareholder Meeting | 23 October 2015 |
| Prospectus Offer closes (indicative) | 23 October 2015 |
| Date for giving notice of status of conditions | 12 November 2015 |
| Offers Close (unless otherwise extended) | 5.00pm (WST) 19 November 2015 |
| Anticipated date for re-instatement to trading on ASX | 23 November 2015 |

Key Contacts

Share registrar for the Offers:

Automic Registry Services
Suite 1a, Level 1, 7 Ventnor Avenue, West Perth, Western
Australia 6005, Australia
Phone (within Australia): 08 9324 2099
Phone (outside Australia): +61 8 9324 2099

Fitzroy Resources Ltd:

Suite 1, Level 1, 35 Havelock Street, West Perth,
Western Australia 6005, Australia
Phone (within Australia): (08) 9481 7111
Phone (outside Australia): +61 8 9481 7111

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1. Investment Overview

The information in this Section 1 is intended to provide an overview of Fitzroy, the Offers that Fitzroy is making for your 4DS Shares and the risks you should consider.

The information in this Section 1 is not intended to be comprehensive and should be read in conjunction with the detailed information contained in this Bidder's Statement.

You should read this Bidder's Statement in its entirety and the separate target's statement which will be sent to you directly by 4DS before deciding how to deal with your 4DS Shares. The detailed terms of the Ordinary Share Offer are set out in Annexure A. The detailed terms of the Preference Share Offer are set out in Annexure B.

The information in this Section 1 is set out by way of response to a series of questions. Fitzroy believes this is the most informative way to provide the information. Each answer has, where appropriate, cross-references to other questions in this Investment Overview and other parts of this Bidder's Statement, including the Annexures, that contain more information that you might find useful or relevant.

Part A of this Investment Overview deals with the Offers. Part B deals with Fitzroy, its business and assets and Fitzroy Securities. Part C deals with risks relating to Fitzroy, 4DS, the Offers and the Merged Entity. Part D deals with other relevant questions.

If you have any questions about the Offers, please contact Fitzroy on +61 8 9481 7111, or your professional financial adviser.

Part A – Overview of the Offers

| No. | Question | Answer | Further Information |
|-----|---|--|--|
| 1. | What is Fitzroy offering to buy? | <p>Fitzroy is offering to buy all 4DS Ordinary Shares under the Ordinary Share Offer, and all 4DS Preference Shares under the Preference Share Offer, including 4DS Shares that are issued during the Offer Period due to the conversion of 4DS Securities, on the terms set out in this Bidder's Statement.</p> <p>You may only accept the Offers in respect of all (not part) of the 4DS Ordinary Shares or 4DS Preference Shares held by you.</p> | <p>Annexure A contains the full terms of the Ordinary Share Offer and the Conditions.</p> <p>Annexure B contains the full terms of the Preference Share Offer and the Conditions.</p> <p>The answers to questions 2 to 6 and 15 to 28 explain other aspects of the Offers.</p> |
| 2. | How long will the Offers remain open? | The Offers open on 8 October 2015. Unless withdrawn or extended in accordance with the Corporations Act, the Offers are scheduled to close at 5:00 pm (WST) on 19 November 2015. | |
| 3. | What will you receive if you accept the Ordinary Share Offer? | <p>If you accept the Ordinary Share Offer, subject to satisfaction of the Conditions of the Offer, you will receive:</p> <p>110.4400015 Fitzroy Ordinary Shares; and</p> <p>20.5905086 Fitzroy Class 1 Performance Shares,</p> <p>for every one 4DS Ordinary Share held by you.</p> | Annexure A contains full terms of the Ordinary Share Offer and the Conditions. The answer to question 25 summarises the Conditions. |
| 4. | What will you receive if you accept the Preference Share Offer? | <p>If you accept the Preference Share Offer, subject to satisfaction of the Conditions of the Offer, you will receive:</p> <p>110.4400015 Fitzroy Ordinary Shares; and</p> <p>20.5905086 Fitzroy Class 1 Performance Shares,</p> | Annexure B contains full terms of the Preference Share Offer and the Conditions. The answer to question 25 summarises the Conditions. |

| No. | Question | Answer | Further Information |
|-----|--|---|--|
| | | for every one 4DS Preference Share held by you. | |
| 5. | What is the value of the Ordinary Share Offer? | <p>The implied value of the offer (excluding the value of Fitzroy Ordinary Shares issued upon conversion of the Fitzroy Class 1 Performance Shares) is US\$3.87 per 4DS Ordinary Share based on Fitzroy's closing share price on 10 August 2015 (being the last day Fitzroy Shares traded on ASX prior to the Announcement Date) of A\$0.050 and a A\$/US\$ exchange rate of 0.70.</p> <p>The value of the Ordinary Share Offer may change as a consequence of changes in the market price of Fitzroy Ordinary Shares.</p> | <p>Section 4.2 of this Bidder's Statement provides further information in respect of the implied value of the Ordinary Share Offer.</p> <p>The answers to questions 7 to 13, and Sections 3, 4 and 9 of this Bidder's Statement contain more information about Fitzroy, its business and assets and the risks that may apply to Fitzroy.</p> <p>Section 2 of this Bidder's Statement contains the view of Fitzroy as to why they think you should accept the Ordinary Share Offer.</p> |
| 6. | What is the value of the Preference Share Offer? | <p>The implied value of the offer (excluding the value of Fitzroy Ordinary Shares issued upon conversion of the Fitzroy Class 1 Performance Shares) is US\$3.87 per 4DS Preference Share based on Fitzroy's closing share price on 10 August 2015 (being the last day Fitzroy Shares traded on ASX prior to the Announcement Date) of A\$0.050 and a A\$/US\$ exchange rate of 0.70. The value of the Preference Share Offer may change as a consequence of changes in the market price of Fitzroy Ordinary Shares.</p> <p>It is a term of the 4DS Preference Shares that they will convert into 4DS Ordinary Shares if 4DS completes a 4DS IPO. Completion of the Offers will from a practical point of view result in a listing of 4DS. On the basis that the 4DS Preference Shares would have automatically converted to 4DS Ordinary Shares on a 4DS IPO, and the voting and dividend rights are otherwise materially the same as those attaching to 4DS Ordinary Shares, Fitzroy is treating them the same as 4DS Ordinary Shares for the purposes of the Offers (ie. their value and the bid consideration is identical).</p> | <p>Section 4.2 of this Bidder's Statement provides further information in respect of the implied value of the Preference Share Offer.</p> <p>The answers to questions 7 to 13, and Sections 3, 4 and 9 of this Bidder's Statement contain more information about Fitzroy, its business and assets and the risks that may apply to Fitzroy.</p> <p>Section 2 of this Bidder's Statement contains the view of Fitzroy as to why they think you should accept the Preference Share Offer.</p> |

Part B – Overview of Fitzroy

| No. | Question | Answer | Further Information |
|-----|-----------------|---|---|
| 7. | Who is Fitzroy? | <p>Fitzroy is an Australian incorporated company listed on the Official List of the ASX (ASX Code: FRY).</p> <p>Please refer to Sections 3, 4 for further</p> | <p>Sections 3, 4 and 9 of this Bidder's Statement contain more information about Fitzroy's assets, financial position, details of Fitzroy</p> |

| No. | Question | Answer | Further Information |
|-----|---|--|--|
| | | information on Fitzroy. | Securities currently on issue and the risks that may apply to Fitzroy. |
| 8. | Will my new Fitzroy Consideration Securities be listed on ASX? | <p>Within 7 days of the date of this Bidder's Statement, Fitzroy will apply to ASX for quotation of the new Fitzroy Ordinary Shares to be issued as Fitzroy Consideration Securities on ASX and the Offers are conditional on quotation being granted. Quotation of the new Fitzroy Ordinary Shares depends on ASX exercising its discretion to admit them to quotation on ASX.</p> <p>As the Offers, if successful, will result in a change in nature and scale of Fitzroy's activities under ASX Listing Rule 11.1, Fitzroy Shares will be suspended from trading on the ASX from the date of the Fitzroy Shareholder Meeting until Fitzroy re-complies with Chapters 1 and 2 of the ASX Listing Rules and receives ASX approval to be re-admitted to the ASX.</p> <p>The Fitzroy Class 1 Performance Shares being offered will not be listed on ASX, but upon satisfaction of the Milestone and conversion of the Fitzroy Class 1 Performance Shares into Fitzroy Ordinary Shares, Fitzroy will apply to ASX for quotation of the new Fitzroy Ordinary Shares on ASX.</p> | Section 4.3 of this Bidder's Statement contains more information in relation to the re-admission of Fitzroy Shares to trading on the ASX. |
| 9. | Will my new Fitzroy Consideration Securities be restricted from trading? | <p>Fitzroy Ordinary Shares (and Fitzroy Ordinary Shares issued upon conversion of Fitzroy Class 1 Performance Shares) issued as Fitzroy Consideration Securities may be subject to trading restrictions for a period of time in accordance with the ASX Listing Rules, depending on:</p> <ul style="list-style-type: none"> (a) whether or not you are a related party or promoter of Fitzroy or 4DS; (b) the amount of cash that you paid for Your 4DS Shares; and (c) the date of issue of Your 4DS Shares. | Section 10.11 of this Bidder's Statement contains more information in relation to the trading restrictions applicable to Fitzroy Securities. |
| 10. | What rights and liabilities will attach to my new Fitzroy Consideration Securities? | <p>The new Fitzroy Ordinary Shares issued under the Offers will be issued fully paid and will from the time of issue rank equally with existing Fitzroy Ordinary Shares.</p> <p>The new Fitzroy Class 1 Performance Shares will constitute a new class of shares.</p> | <p>Section 4.6 of this Bidder's Statement contains more information about the rights and liabilities attaching to Fitzroy Ordinary Shares.</p> <p>Section 4.7 of this Bidder's Statement contains more information about the rights and liabilities attaching to Fitzroy Class 1 Performance Shares.</p> |

| No. | Question | Answer | Further Information |
|-----|---|---|---|
| 11. | Who are the Fitzroy Directors and what experience do they have? | <p>The current Directors of Fitzroy are:</p> <p>(a) Mr Riccardo Vittino – Non-Executive Director;</p> <p>(b) Mr Tim Grice – Non-Executive Director; and</p> <p>(c) Mr Peter Webse – Non-Executive Director.</p> <p>The Directors of Fitzroy have a variety of significant experience in capital markets, mineral exploration and corporate and financial management.</p> <p>In addition, the Bid Implementation Agreement provides that Fitzroy will appoint Mr James Dorrian, Dr Guido Arnout, Mr David McAuliffe and Mr Howard Digby as Directors, and the current Directors will resign, with effect from the Offers becoming Unconditional.</p> | <p>Section 3.2 of this Bidder's Statement contains further information in relation to the Fitzroy Directors and their experience.</p> <p>Section 7.3(b) contains further information regarding the proposed directors of Fitzroy.</p> |
| 12. | Do the Directors of Fitzroy have any securities in 4DS? | No, none of the Fitzroy Directors have securities in 4DS. | |
| 13. | Do the Fitzroy Directors have any interest in Fitzroy Securities? | <p>Yes, all of the Fitzroy Directors have securities in Fitzroy.</p> <p>The interests held by the Directors are disclosed in Section 10.9 of this Bidder's Statement.</p> | Sections 10.9 and 10.10 of this Bidder's Statement contain further information in relation to the shareholdings and other interests in Fitzroy, and the remuneration, of the Fitzroy Directors. |

Part C – Overview of Risks

| No. | Question | Answer | Further Information |
|-----|---|--|---|
| 14. | Are there risks if I accept the Offers? | <p>Yes. If you accept an Offer, and it becomes Unconditional, you will be issued new Fitzroy Securities and Fitzroy will acquire an interest in 4DS. There are risks in holding Fitzroy Securities. You are already exposed to some of these risks, to varying degrees, as a result of your 4DS Securities.</p> <p>The financial and operational performance of Fitzroy's business, and the value and trading prices for Fitzroy Securities will be influenced by a range of risks. Many of these risks are beyond the control of Fitzroy's Board and management.</p> <p>Section 9 of this Bidder's Statement provides a detailed explanation of these risks. Specifically it deals with:</p> <p>(a) risks relating to the Offers;</p> | See Section 9 of this Bidder's Statement which contains full details in respect of each of the risks. |

- (d) risks that are specific to Fitzroy and 4DS as the Merged Entity; and
- (e) general and industry risks relating to Fitzroy and 4DS as the Merged Entity.

Part D – Other Relevant Questions

| No. | Question | Answer | Further Information |
|-----|---|---|--|
| 15. | Is there an offer in respect of 4DS Options and 4DS A Class Shares? | Fitzroy intends to enter into private treaty arrangements with 4DS Optionholders and 4DS A Class Shareholders to acquire their 4DS Non-voting Securities. | See Section 10.6 of this Bidder's Statement for further information. |
| 16. | Can the Offer Period be extended? | The Offer Period can be extended at Fitzroy's election in accordance with the Corporations Act. | |
| 17. | What choices do I have as a 4DS Shareholder? | As a 4DS Shareholder, you have the following choices in respect of your 4DS Shares: <ul style="list-style-type: none"> (a) accept the Offer; (b) sell all or some your 4DS Shares outside of the Offers, but as 4DS Shares are not listed on any securities exchange, this may be difficult for you to do; or (c) do nothing. | |
| 18. | How do I accept the Offers? | Below is a summary of the ways in which you can accept the Offers. Full details regarding acceptance of the Ordinary Share Offer are set out in Section 4 of Annexure A. Full details regarding acceptance of the Preference Share Offer are set out in Section 4 of Annexure B. <p>You may only accept the Offers in respect of all (and not part) of your 4DS Shares.</p> <p>To accept the Offers, you must complete the relevant accompanying Acceptance Form and return it, together with any other documents required, to the address on the form so that it is received before the date the Offer closes.</p> | For the Ordinary Share Offer, see your Ordinary Share Offer Acceptance Form enclosed with this Bidder's Statement and Annexure A for further information. <p>For the Preference Share Offer, see your Preference Share Offer Acceptance Form enclosed with this Bidder's Statement and Annexure B for further information.</p> |
| 19. | Can I accept an Offer for part of my holding? | No, you must accept the Offer for all of your holding. | |
| 20. | If I accept an Offer can I withdraw my acceptance? | You cannot withdraw or revoke your acceptance unless a withdrawal right arises under the Corporations Act. A withdrawal right will arise if, after you have accepted the Offer, Fitzroy varies the Offer in a way that postpones for more than one month the time that Fitzroy has to meet its obligations under the Offer (for example, if Fitzroy extends the Offer for more than one month while the Offer remains subject to any of the Conditions). | Annexure A of this Bidder's Statement contains more information as to the limited circumstances in which you may be able to revoke or withdraw your acceptance of the Ordinary Share Offer. <p>Annexure B of this Bidder's Statement contains more information as to the limited</p> |

| No. | Question | Answer | Further Information |
|-----|--|--|--|
| | | | circumstances in which you may be able to revoke or withdraw your acceptance of the Preference Share Offer. |
| 21. | When will I receive my consideration? | <p>If you accept an Offer, subject to you providing any other documents required, Fitzroy will issue your Fitzroy Consideration Securities as consideration for your 4DS Ordinary Shares or 4DS Preference Shares on or before the earlier of:</p> <p>(a) one month after you have validly accepted the Offer or the contract resulting from its acceptance becomes Unconditional (whichever is later); and</p> <p>(b) 21 days after the end of the Offer Period, provided that the Offer has become Unconditional.</p> | <p>Annexure A of this Bidder's Statement contains more information as to when your new Fitzroy Securities will be issued to you under the Ordinary Share Offer.</p> <p>Annexure B of this Bidder's Statement contains more information as to when your new Fitzroy Securities will be issued to you under the Preference Share Offer.</p> |
| 22. | Will I need to pay any transaction costs if I accept the Offers? | You will not incur any brokerage fees or be obliged to pay stamp duty in connection with your acceptance of an Offer. | Annexure A of this Bidder's Statement contains the full terms of the Ordinary Share Offer and Conditions. Annexure B of this Bidder's Statement contains the full terms of the Preference Share Offer and Conditions. See also the instructions on the relevant Acceptance Form enclosed with this Bidder's Statement. |
| 23. | What happens if I do not accept the Ordinary Share Offer? | <p>Subject to the explanation below, you will remain an ordinary shareholder of 4DS and will not receive the Ordinary Share Offer Consideration.</p> <p>If you do not accept the Offer or sell your 4DS Shares and Fitzroy acquires a Relevant Interest in at least 90% of 4DS Ordinary Shares and the other conditions of the Offer are satisfied or waived, Fitzroy intends to proceed to compulsorily acquire your outstanding 4DS Ordinary Shares. You will be invited to claim the Ordinary Share Offer Consideration. Therefore, accepting the Offer will result in you receiving your Ordinary Share Offer Consideration sooner if you accept the Offer, rather than having your 4DS Ordinary Shares compulsorily acquired.</p> <p>If the Offer becomes or is declared Unconditional but Fitzroy does not become entitled to compulsorily acquire your 4DS Ordinary Shares under the Corporations Act, unless you sell your 4DS Ordinary Shares, you will remain a shareholder in 4DS. In these</p> | <p>Section 7.3 of this Bidder's Statement provides more information regarding Fitzroy's intentions if it acquires a Relevant Interest in at least 90% of the 4DS Ordinary Shares.</p> <p>Sections 7.4 and 7.5 of this Bidder's Statement provide more information regarding Fitzroy's intentions if it acquires a Relevant Interest in less than 90% of the 4DS Ordinary Shares.</p> |

| No. | Question | Answer | Further Information |
|-----|--|---|--|
| | | <p>circumstances and, depending on the number of 4DS Ordinary Shares acquired by Fitzroy, you may be a minority shareholder in what may be an even less liquid stock.</p> | |
| 24. | <p>What happens if I do not accept the Preference Share Offer?</p> | <p>Subject to the explanation below, you will remain a preference shareholder of 4DS and will not receive the Preference Share Offer Consideration.</p> <p>If you do not accept the Offer or sell your 4DS Shares and Fitzroy acquires a Relevant Interest in at least 90% of 4DS Preference Shares and the other conditions of the Offer are satisfied or waived, Fitzroy intends to proceed to compulsorily acquire your outstanding 4DS Preference Shares. You will be invited to claim the Preference Share Offer Consideration. Therefore, accepting the Offer will result in you receiving your Preference Share Offer Consideration sooner if you accept the Offer, rather than having your 4DS Preference Shares compulsorily acquired.</p> <p>If the Offer becomes or is declared Unconditional but Fitzroy does not become entitled to compulsorily acquire your 4DS Shares under the Corporations Act, unless you sell your 4DS Preference Shares, you will remain a shareholder in 4DS. In these circumstances and, depending on the number of 4DS Preference Shares acquired by Fitzroy, you may be a minority shareholder in what may be an even less liquid stock.</p> | <p>Section 7.3 of this Bidder's Statement provides more information regarding Fitzroy's intentions if it acquires a Relevant Interest in at least 90% of the 4DS Preference Shares.</p> <p>Sections 7.4 and 7.5 of this Bidder's Statement provide more information regarding Fitzroy's intentions if it acquires a Relevant Interest in less than 90% of the 4DS Preference Shares.</p> |
| 25. | <p>Are there conditions to the Offers?</p> | <p>The Ordinary Share Offer is subject to the Conditions set out in Section 8 of Annexure A and the Preference Share Offer is subject to the Conditions set out in Section 8 of Annexure B and which include:</p> <ul style="list-style-type: none"> <li data-bbox="544 1518 1069 1585">(a) Fitzroy Shareholders approving the Essential Resolutions; <li data-bbox="544 1619 1069 1877">(b) the Prospectus Offer closing and, as at the close of the Prospectus Offer, Fitzroy receiving or becoming entitled to receive, in immediately available funds, gross proceeds of no less than \$2,250,000 (before the costs of the Prospectus Offer) as a result of subscriptions made under the Prospectus Offer; <li data-bbox="544 1910 1069 2033">(c) on or before the end of the Offer Period, Fitzroy having a Relevant Interest in more than 90% (by number) of the 4DS Ordinary Shares on issue; <li data-bbox="544 2067 1069 2096">(d) on or before the end of the Offer Period, | <p>Section 8 of Annexure A to this Bidder's Statement sets out the Conditions to the Ordinary Share Offer in full.</p> <p>Section 8 of Annexure B to this Bidder's Statement sets out the Conditions to the Preference Share Offer in full.</p> |

| No. | Question | Answer | Further Information |
|-----|---|--|--|
| | | <p>Fitzroy having a Relevant Interest in more than 90% (by number) of the 4DS Preference Shares on issue;</p> <p>(e) Fitzroy receiving from ASX written confirmation that ASX will re-instate Fitzroy Ordinary Shares to quotation on ASX and terminate the suspension of Fitzroy Ordinary Shares from quotation, subject to the satisfaction of such terms and conditions (if any) as are prescribed by ASX or the Listing Rules;</p> <p>(f) no Prescribed Occurrence for 4DS or 4DS Material Adverse Change occurring prior to the end of the Offer Period;</p> <p>(g) all 4DS Non-voting Security-holders accepting a Private Treaty Offer in respect of their 4DS Non-voting Securities;</p> <p>(h) a condition relating to decisions, actions and investigations by, and applications to, Government Agencies which may adversely affect the Offers; and</p> <p>(i) a condition relating to any approvals or consents required as a result of the Offers, being obtained.</p> | |
| 26. | What if the Conditions are not satisfied or waived? | <p>If an Offer closes and the Conditions are not satisfied or waived, the Offer will lapse, and your acceptance will be void. In other words, you will continue to hold your 4DS Shares (unless you otherwise sell them). Fitzroy will announce whether the Conditions have been satisfied or waived during the Offer Period in accordance with its obligations under the Corporations Act.</p> <p>Under the Bid Implementation Agreement Fitzroy has agreed that it will not waive any Essential Condition without the prior written consent of 4DS (such consent not to be unreasonably withheld or delayed).</p> | <p>Annexure A to this Bidder's Statement sets out further information in relation to the Ordinary Share Offer.</p> <p>Annexure B to this Bidder's Statement sets out further information in relation to the Preference Share Offer.</p> <p>See Section 10.1 for details of the Bid Implementation Agreement.</p> |
| 27. | What happens if Fitzroy improves the Offer Consideration? | <p>If Fitzroy improves the Offer Consideration of an Offer, all the 4DS Shareholders who accept that Offer (whether or not they have accepted the Offer before or after such improvement) will be entitled to the benefit of the improved Offer Consideration, should that Offer become or be declared Unconditional.</p> | <p>Annexure A to this Bidder's Statement sets out further information in relation to the Ordinary Share Offer.</p> <p>Annexure B to this Bidder's Statement sets out further information in relation to the Preference Share Offer.</p> |
| 28. | What are the tax implications of accepting the | <p>A general summary of the Australian tax consequences for 4DS Shareholders who accept the Offers is set out in Section 8. This summary</p> | <p>Section 8 of this Bidder's Statement sets out further information.</p> |

| No. | Question | Answer | Further Information |
|-----|----------|--|---------------------|
| | Offers? | is expressed in general terms only and is not intended to provide taxation advice for your specific circumstances. 4DS Shareholders should seek their own taxation advice in relation to the Offers. | |

2. Why You Should Accept the Offers

Fitzroy believes you should **ACCEPT** the Offers for the following reasons:

1. You will receive attractive value for your 4DS Shares.

The implied value of the offer (excluding the value of Fitzroy Ordinary Shares issued upon conversion of the Fitzroy Class 1 Performance Shares) is US\$3.87 per 4DS Share based on Fitzroy's closing share price on 10 August 2015 (being the last day Fitzroy Shares traded on ASX prior to the Announcement Date) of A\$0.050 and a A\$/US\$ exchange rate of 0.70. The implied value of the Fitzroy Ordinary Shares that may be issued upon conversion of the Fitzroy Class 1 Performance Shares is a further US\$0.66 per 4DS Share based on the same Fitzroy share price and exchange rate assumptions. The value of the Offer may change as a consequence of changes in the market price of Fitzroy Ordinary Shares.

It is a term of the 4DS Preference Shares that they will convert into 4DS Ordinary Shares if 4DS completes a 4DS IPO. Completion of the Offers will from a practical point of view result in a listing of 4DS. On the basis that the 4DS Preference Shares would have automatically converted to 4DS Ordinary Shares on a 4DS IPO, and the voting and dividend rights are otherwise materially the same as those attaching to 4DS Ordinary Shares, Fitzroy is treating them the same as 4DS Ordinary Shares for the purposes of the Offers (ie. their value and the bid consideration is identical).

2. You will gain ASX share trading liquidity.

Since Fitzroy is listed on ASX and Fitzroy is offering to issue Fitzroy Ordinary Shares as consideration for your 4DS Shares, you will, if you accept the Offer, gain the ability to trade on ASX the Fitzroy Ordinary Shares (and Fitzroy Ordinary Shares issued on conversion of the Fitzroy Class 1 Performance Shares) that you receive as Offer Consideration should the Offers be successful (subject to any trading restrictions that may apply to your Fitzroy Ordinary Shares).

3. You will become a shareholder in a better capitalised company with cash reserves to develop 4DS's ReRAM technology and improved access to capital.

As at 30 June 2015, Fitzroy had a cash and cash equivalents balance of approximately \$1,123,482 and under the Prospectus Offer is seeking to raise an additional minimum of \$2.25 million (with the ability to accept oversubscriptions of a further \$500,000) to support the Merged Entity's strategy to develop 4DS's ReRAM technology. 4DS currently has insufficient funds to fully develop its ReRAM technology.

By accepting the Offers, should they be successful, you will become a shareholder of a company with an enhanced balance sheet and improved access to capital for funding given its ASX listing.

4. The 4DS Board unanimously recommends that you accept the Offers

The 4DS Board, in the absence of a Superior Proposal, unanimously recommends that 4DS Shareholders accept the Offers. This unanimous recommendation is contained in the Target's Statement.

The members of the 4DS Board have also indicated that they intend to, in the absence of a Superior Proposal, to accept the Offers in respect of all 4DS Shares they control.

5. 4DS Shareholders who own 19.99% of the voting 4DS Shares on issue intend to accept the Offers

As announced on 13 August 2015, major 4DS Shareholders holding 19.99% of the voting 4DS Shares have entered into pre-bid acceptance agreements with Fitzroy agreeing to accept the Offers.

6. The management skills of the Merged Entity's directors will allow 4DS's ReRAM technology to be further developed.

If the Offers are successful, the board of directors of the Merged Entity will comprise current 4DS directors Mr James Dorrian, Dr Guido Arnout and Mr David McAuliffe, together with Mr Howard Digby. Together, these directors have significant expertise and skills in technology ventures and public company management, to oversee the further development of 4DS's ReRAM technology.

7. You may be eligible for full or partial capital gains rollover relief.

4DS Shareholders may have access to full or partial scrip for scrip rollover relief in relation to the exchange of their 4DS Shares for Fitzroy Shares, in which case you will not incur capital gains tax (CGT) as a result of accepting the Offer.

Should the Offer be successful and result in Fitzroy becoming the holder of 80% or more of the voting shares in 4DS as at the close of the Offer Period, 4DS Shareholders who would otherwise make a capital gain from the disposal of their 4DS Shares pursuant to the Offer may be able to choose to obtain full or partial scrip for scrip rollover relief.

If scrip for scrip rollover relief is available and is chosen by 4DS Shareholders who would otherwise have made a capital gain on disposal of their 4DS Shares under the Offer, all of the capital gain from the disposal may be disregarded.

However, 4DS Shareholders may be subject to capital gains tax as a result of a later taxable event (such as a disposal) happening to the Fitzroy Shares received as consideration under the Offer.

Please refer to Section 8 for more information.

If you wish to accept the Offers, you must return the signed relevant Acceptance Form by 5:00 pm (WST) on 19 November 2015.

3. Profile of Fitzroy

3.1 Overview of Fitzroy

Fitzroy was incorporated as a public company on 4 August 2010 and was admitted to the Official List of ASX on 6 December 2010.

Since its incorporation, Fitzroy has been involved in the exploration of several coal and base metals projects.

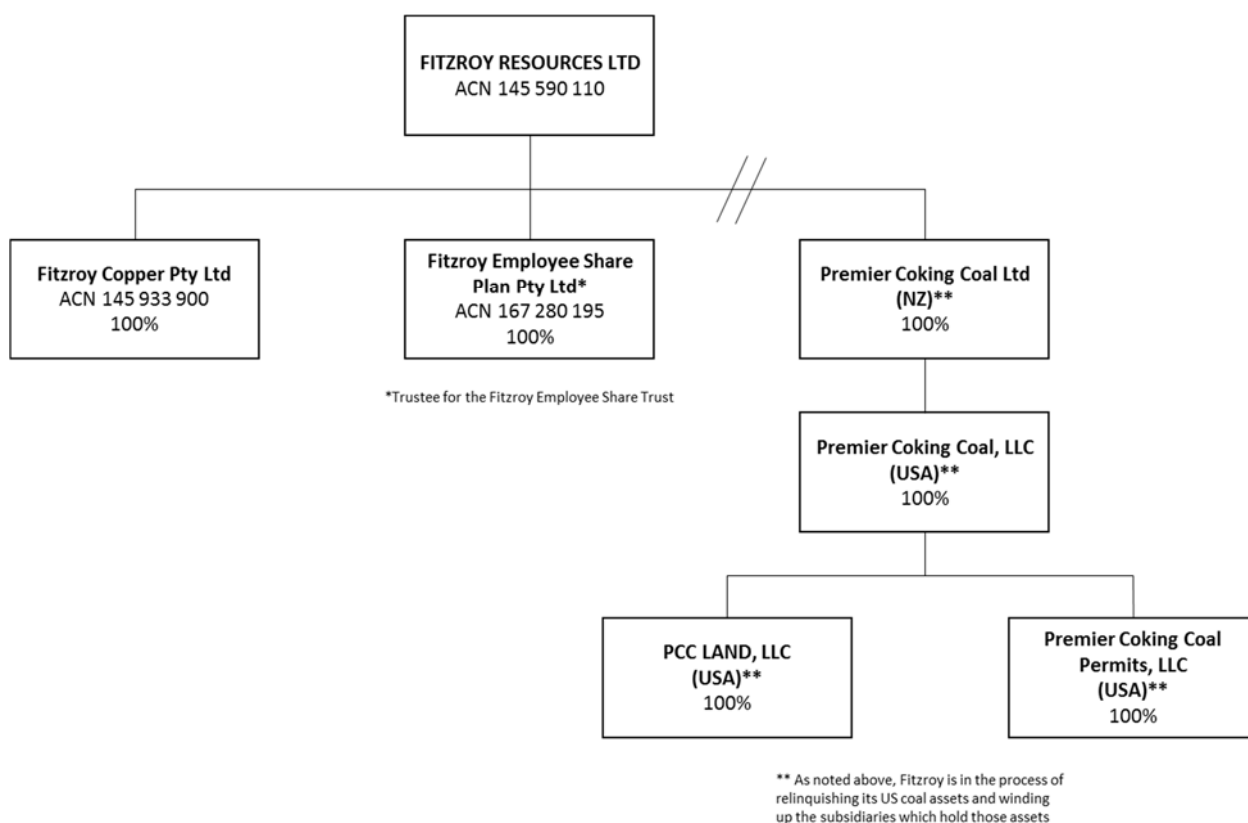
Fitzroy has built up a portfolio of interests in copper mining tenements in Queensland and coal leases in the United States of America.

As announced by the Company on 7 July 2014, Fitzroy has sold 51% of its Rookwood base metals exploration project in Queensland to Zenith Minerals Limited (**Zenith**). Zenith has an exclusive option to acquire the remaining equity in the Rockwood Project.

As noted in the Company's Quarterly Report for the period ending 30 June 2015, the Company has given notice to Emmaus Partners LLC and Blackstone Energy Corporation that it will be withdrawing from the US coking coal sector, and has commenced the process of winding up its US operations and subsidiaries.

As at 10 August 2015 (being the last trading day before the Announcement Date), Fitzroy had 353 Shareholders and a market capitalisation of approximately \$8.2 million.

The corporate structure of Fitzroy is shown in the diagram below.



3.2 Directors and key personnel of Fitzroy

A brief summary of the Fitzroy Board and key personnel, as at the date of this Bidder's Statement, is set out below.

Mr Riccardo Vittino – Non-Executive Director (appointed 4 August 2010)

Mr Vittino has over 25 years' experience in the resources sector with a focus on corporate and financial management. He graduated from the University of Western Australian with a Bachelor of Commerce degree in 1985 and began his career in the mining industry in 1988 as Company Secretary for Helix Resources Ltd.

During his 18 year tenure at Helix, Mr Vittino was involved with various IPOs and Joint Ventures both local and International. He left Helix in 2006 as CEO to pursue a role in South Africa as Finance Director of Central Rand Gold Ltd. He was responsible for overseeing Central Rand Gold's listing on the Main Board of the LSE and the JSE in 2007 and subsequent progress to pre-feasibility and commencement of trial mining.

Mr Vittino returned to Perth in 2008 to focus on personal interests. He has held numerous non-executive Director roles including Diamond Ventures NL and Platinum Australia Ltd. He is a Fellow of the Australian Institute of Company Directors.

Mr Vittino is currently a director of Credo Resources Ltd and CFO of Moly Mines Limited.

Mr Tim Grice – Non-Executive Director (appointed 8 May 2015)

Mr Grice has a broad range of experience in capital markets where he has worked for 29 years. He has held a number of senior adviser positions at national and international stockbroking companies including Bell Potter, UBS and Merrill Lynch and been involved in raising capital for many emerging companies in mining and technology.

Mr Peter Webse – Non-Executive Director and Company Secretary (appointed director 8 May 2015, appointed secretary 11 May 2015)

Mr Webse has over 24 years' company secretarial experience and is the managing director of Platinum Corporate Secretariat Pty Ltd, a company specialising in providing company secretarial, corporate governance and corporate advisory services. Mr Webse is also a non-executive director of Cynata Therapeutics Limited.

Proposed Directors

The Bid Implementation Agreement provides that Fitzroy will appoint Mr James Dorrian, Dr Guido Arnout, Mr David McAuliffe and Mr Howard Digby as Fitzroy Directors after the Minimum Acceptance Condition has been satisfied and the Offers become Unconditional.

3.3 Overview of Fitzroy's activities

This Section 3.3 contains a summary of Fitzroy's activities. Further information on Fitzroy can be obtained from Fitzroy's website (www.fitzroyresources.com.au).

Fitzroy is an Australian public company that has previously been focused on the identification and development of mineral resources including copper and coal. Fitzroy holds interests in copper mining tenements in Queensland and coal assets in the United States of America.

As announced by the Company on 7 July 2014, Fitzroy has sold 51% of its Rookwood base metals exploration project in Queensland to Zenith Minerals Limited (**Zenith**). Zenith has an exclusive option to acquire the remaining equity in the Rockwood Project.

As noted in the Company's Quarterly Report for the period ending 30 June 2015, the Company has given notice to Emmaus Partners LLC and Blackstone Energy Corporation that it will be withdrawing from the US coking coal sector, and has commenced the process of winding up its US operations and subsidiaries.

As at 30 June 2015, Fitzroy had cash and cash equivalents of approximately \$1,123,482.

Fitzroy's primary objective has been to realise value for its Shareholders through exploration success with its mineral projects. Following an extended period of difficult market conditions for junior resources companies, Fitzroy has remained open minded to acquisitions or investments in other sectors.

3.4 Fitzroy's projects

Fitzroy's portfolio of tenements and leases includes:

| Project | Location | Tenement | Interest |
|-----------|------------|----------|----------|
| Rookwood | Queensland | EPM17604 | 49% |
| Rookwood | Queensland | EPM18845 | 49% |
| Rookwood | Queensland | EPM16749 | 49% |
| Glentanna | Queensland | EPM15401 | 100% |

| Coal Lease | Location | Land Owner | Lease Date | Interest |
|------------|----------|--------------------------------------|------------|-----------------------------|
| Emmaus | WV, USA | Kim Peraldo Gilley, et al., Trustees | 24/7/2012 | Notice of withdrawal lodged |
| Emmaus | WV, USA | Harrold Investment, LP | 23/8/2012 | Notice of withdrawal lodged |
| Emmaus | WV, USA | Red Bird Pocahontas Land, LLC | 26/9/2012 | Notice of withdrawal lodged |
| Emmaus | WV, USA | C.O. Davis, Jr., et al., | 21/11/2012 | Notice of withdrawal lodged |
| Blackstone | WV, USA | Marco Land Company, Inc | 26/9/2012 | Notice of withdrawal lodged |

3.5 Financial Performance

- (a) The historical consolidated statements of financial position of Fitzroy are set out below and have been extracted from the audited consolidated statements of financial position as at the end of the financial years ended 30 June 2013, 30 June 2014 and 30 June 2015, being the last three audited consolidated statements of financial position prior to the date of this Bidder's Statement.

| | Consolidated FY 2015 | Consolidated FY2014 | Consolidated FY2013 |
|--|-------------------------|------------------------|------------------------|
| | \$ | \$ | \$ |
| ASSETS | | | |
| CURRENT ASSETS | | | |
| Cash and cash equivalents | 1,123,482 | 232,213 | 1,924,913 |
| Trade and other receivables | 22,124 | 11,418 | 7,379 |
| Other current assets | 20,000 | - | 2,553 |
| TOTAL CURRENT ASSETS | 1,165,606 | 243,631 | 1,934,845 |
| NON-CURRENT ASSETS | | | |
| Plant and equipment | 10,873 | 15,531 | 22,186 |
| Exploration and evaluation expenditure | 420,000 | 3,589,049 | 1,744,182 |
| TOTAL NON-CURRENT ASSETS | 430,873 | 3,604,580 | 1,766,368 |
| TOTAL ASSETS | 1,596,479 | 3,848,211 | 3,701,213 |
| CURRENT LIABILITIES | | | |
| Trade and other payables | 90,378 | 90,362 | 56,517 |
| Provisions | - | 10,192 | - |
| Other current liabilities | 26,381 | 26,381 | - |
| TOTAL CURRENT LIABILITIES | 116,759 | 126,935 | 56,517 |
| TOTAL LIABILITIES | 116,759 | 126,935 | |
| NET ASSETS | 1,479,720 | 3,721,276 | 3,644,696 |
| SHAREHOLDERS' EQUITY | | | |
| Issued capital | 10,660,732 | 9,261,186 | 6,729,437 |
| Reserves | 1,090,134 | 332,754 | 403,800 |
| Accumulated losses | (10,271,146) | (5,872,664) | (3,488,541) |
| TOTAL SHAREHOLDERS' EQUITY | 1,479,720 | 3,721,276 | 3,644,696 |

- (b) The historical consolidated statements of financial performance of Fitzroy are set out below and have been extracted from the audited consolidated statements of financial performance for the financial years ended 30 June 2013, 30 June 2014 and 30 June 2015, being the last three audited consolidated statements of financial performance prior to the date of this Bidder's Statement.

| | Consolidated FY 2015 | Consolidated FY2014 | Consolidated FY2013 |
|--|-------------------------|------------------------|------------------------|
| | \$ | \$ | \$ |
| Revenue | 10,087 | 58,387 | 72,600 |
| Directors fees | (86,643) | (112,517) | (196,389) |
| Administration expenses | (464,456) | (392,938) | (230,179) |
| Exploration expenses | (187,813) | (616,904) | (48,625) |
| Impairment of capitalised exploration | (2,919,049) | (1,313,496) | (148,017) |
| Share based payment | (745,950) | - | - |
| Depreciation and amortisation expense | (4,658) | (6,655) | (9,484) |
| Loss before income tax | (4,398,482) | (2,384,123) | (560,094) |
| Income tax expense | - | - | - |
| Loss for the year | (4,398,482) | (2,384,123) | (560,094) |
| Other comprehensive income | | | |
| <i>Items that may be reclassified subsequently to profit or loss</i> | | | |
| Foreign currency translation (net of tax) | 11,430 | (78,482) | - |
| Total comprehensive loss for the year | (4,387,052) | (2,462,605) | (560,094) |
| Basic and diluted loss per share (cents per Share) | (6.71) | (3.07) | (1.25) |

3.6 Relationship with 4DS

Prior to signing the Bid Implementation Agreement, Fitzroy had no existing relationship with 4DS.

As at the date of this Bidder's Statement, no Fitzroy Director has a Relevant Interest in 4DS Securities.

3.7 Corporate Governance

The Fitzroy Board seeks to provide accountability levels that meet or exceed the ASX Corporate Governance Council's Principles for Good Corporate Governance and Best Practice Recommendations.

Details on Fitzroy's corporate governance procedures, policies and practices can be obtained at Fitzroy's website www.fitzroyresources.com.au.

3.8 Publicly available information about Fitzroy

Fitzroy is a listed disclosing entity for the purposes of the Corporations Act and as such is subject to regular reporting and disclosure obligations. Fitzroy is subject to the ASX Listing Rules which require continuous disclosure of any information Fitzroy has concerning itself that a reasonable person would expect to have a material effect on the price or value of its securities.

Fitzroy is also required to lodge various documents with ASIC. Copies of documents lodged with ASIC by Fitzroy may be obtained from, or inspected at, an ASIC office.

On request to Fitzroy and free of charge, 4DS Shareholders may obtain a copy of:

- (a) the annual financial report of Fitzroy for the year ended 30 June 2015 lodged by Fitzroy with the ASX on 20 August 2015 (being the annual financial report most recently lodged with ASIC before lodgement of this Bidder's Statement with ASIC); and

- (b) any continuous disclosure notice given to ASX by Fitzroy since the lodgement with ASIC of the Annual Financial Report for Fitzroy referred to above and before lodgement of this Bidder's Statement with ASIC.

A list of the announcements Fitzroy has lodged with ASX since 20 August 2015 (being the date of lodgement of the annual financial report referred to in paragraph (a)) is set out in Annexure C to this Bidder's Statement.

A substantial amount of information about Fitzroy is available in electronic form from www.fitzroyresources.com.au and on the ASX website.

Other than information contained in this Bidder's Statement, there is no information which has been excluded from a continuous disclosure notice in accordance with the ASX Listing Rules, and which is required to be set out in this Bidder's Statement.

4. Information about Fitzroy Securities

4.1 Capital structure

As at the date of this Bidder's Statement, Fitzroy has the following securities on issue:

| Class of Security | Number |
|---|-------------------------|
| Fitzroy Ordinary Shares currently on issue ¹ | 163,552,872 |
| Fitzroy Existing Performance Shares currently on issue | 6,666,669 ² |
| Fitzroy Options currently on issue | 29,666,668 ³ |

Notes:

1. The rights attaching to the Fitzroy Ordinary Shares are summarised in Section 4.6 of this Bidder's Statement.
2. Existing Performance Shares related to the Company's previous Premier Coal assets (which the Company has now relinquished). The milestones for conversion of the Existing Performance Shares are now incapable of satisfaction. On 23 December 2016 the Existing Performance Shares will convert into a nominal number of Fitzroy Ordinary Shares. There is no right of conversion of the Existing Performance Shares if there is a change of control in relation to the Company prior to their conversion or expiry.
3. Comprising 26,666,668 options each exercisable at \$0.024 on or before 10 May 2018 and 3,000,000 options each exercisable at \$0.042 on or before 25 June 2018. None of the Fitzroy Options are listed on ASX.

4.2 Recent performance of Fitzroy Ordinary Shares

Set out below is a table showing relevant trading prices of Fitzroy Ordinary Shares on ASX:

| Comparative Trading Period | Price of Fitzroy Ordinary Shares |
|--|----------------------------------|
| Highest trading price in the four months prior to the date this Bidder's Statement was lodged with ASIC on 7 October 2015 | \$0.077 |
| Lowest trading price in the four months prior to the date this Bidder's Statement was lodged with ASIC on 7 October 2015 | \$0.028 |
| Closing trading price on the last trading day (being 10 August 2015) before the Announcement Date | \$0.05 |
| Last available closing sale price (as at 6 October 2015) on ASX prior to the date this Bidder's Statement was lodged with ASIC | \$0.056 |
| 5 day volume weighted average price before the date this Bidder's Statement was lodged with ASIC | \$0.0556 |

The implied value of the Offer will be partly dependant on the market price of Fitzroy Ordinary Shares. The implied value of the Offer will change as a consequence of changes in the market price of Fitzroy Ordinary Shares from time to time.

The implied value of the offer (excluding the value of Fitzroy Ordinary Shares issued upon conversion of the Fitzroy Class 1 Performance Shares) is US\$3.87 per 4DS Preference Share based on Fitzroy's closing share price on 10 August 2015 (being the last day Fitzroy Shares traded on ASX prior to the Announcement Date) of A\$0.050 and a A\$/US\$ exchange rate of 0.70. The value of the offer may change as a consequence of changes in the market price of Fitzroy Ordinary Shares.

It is a term of the 4DS Preference Shares that they will convert into 4DS Ordinary Shares if 4DS completes a 4DS IPO. Completion of the Offers will from a practical point of view result in a listing of 4DS. On the basis that the 4DS Preference Shares would have automatically converted to 4DS Ordinary Shares on a 4DS IPO, and the voting and dividend rights are otherwise materially the same as those attaching to 4DS Ordinary Shares, Fitzroy is treating them the same as 4DS Ordinary Shares for the purposes of the Offers (ie. their value and the bid consideration is identical).

4.3 Change in Nature and Scale of Company

The completion of the Offers will result in Fitzroy undergoing a significant change in nature and scale of its activities as contemplated by ASX Listing Rule 11.1, from a mineral exploration company to a memory storage technology development company.

Following such a change in nature and scale, Fitzroy Ordinary Shares will only be re-admitted to trading on the ASX if Fitzroy first complies with the requirements of ASX Listing Rule 11.1.

To comply with ASX Listing Rule 11.1, Fitzroy must (amongst other things):

- (a) obtain Fitzroy Shareholder approval for the change in nature and scale resulting from completion of the Offers;
- (b) re-comply with the requirements of Chapters 1 and 2 of the ASX Listing Rules as if it were applying for admission to the Official List of the ASX; and
- (c) issue a full form prospectus and raise the minimum subscription under that prospectus.

To ensure the Offers only proceed if Fitzroy Ordinary Shares can be re-admitted to trading on the ASX following completion of the Offers, the conditions of the Offers include that Fitzroy:

- (a) obtains Fitzroy Shareholder approval for the change in nature and scale of Fitzroy's activities (this is one of the Essential Resolutions); and
- (b) raises no less than \$2.25 million pursuant to the Prospectus Offer.

Fitzroy has scheduled the Fitzroy Shareholder Meeting for Friday, 23 October 2015 to obtain, amongst other things, shareholder approvals for all of the Essential Resolutions, being in summary:

- (a) the significant change in the nature and scale of the Fitzroy's activities as a result of the successful completion of the Offers;
- (b) the issue of the Fitzroy Class 1 Performance Shares offered as consideration under the Offers and the Private Option Offers;
- (c) the issue of the Fitzroy Ordinary Shares and the Fitzroy Class 1 Performance Shares offered as consideration under the Offers and the Private Treaty Offers;
- (d) the issue of Fitzroy Ordinary Shares under the Prospectus Offer;
- (e) the grant of the Adviser Options to the applicable parties; and
- (f) the appointment of the proposed Directors (being Mr James Dorrian, Dr Guido Arnout, Mr David McAuliffe and Mr Howard Digby) to the Fitzroy Board.

Each of the Essential Resolutions to be considered at the Fitzroy Shareholder Meeting is conditional upon the passing of each of the other Essential Resolutions. If any of the Essential Resolutions are not approved, all of the Essential Resolutions to be considered at the Fitzroy Shareholder Meeting will fail and the Offers (as well as the Prospectus Offer) will not be completed. Further details of the proposed resolutions are contained in the Notice of Meeting.

Fitzroy Ordinary Shares will be suspended from trading from the commencement of trading on the date of the Fitzroy Shareholder Meeting until it has completed the re-compliance with Chapters 1 and 2 of the ASX Listing Rules.

Fitzroy intends to lodge a prospectus for the Prospectus Offer on or about 12 October 2015.

4.4 Quotation of Fitzroy Ordinary Shares comprising Offer Consideration

As set out in Section 4.3, because the Offers will result in a significant change in nature and scale of Fitzroy's activities (if successful), Fitzroy Ordinary Shares will be suspended from trading on the ASX from the date of the Fitzroy Shareholder Meeting until Fitzroy re-complies with Chapters 1 and 2 of the ASX Listing Rules and received ASX approval to be re-admitted to the ASX.

Fitzroy will lodge an application for admission to quotation of the Fitzroy Ordinary Shares comprising part of the Offer Consideration to trading on ASX within 7 days of the start of the Bid Period. The Offers are conditional on quotation being granted. Quotation will not be automatic and will depend upon ASX exercising its discretion. Nothing in this Bidder's Statement is to be taken to state or imply that the Fitzroy Ordinary Shares to be issued as Offer Consideration will be quoted on ASX.

The Fitzroy Class 1 Performance Shares being offered will not be listed on ASX, but upon satisfaction of the Milestone and conversion of the Fitzroy Class 1 Performance Shares into Fitzroy Ordinary Shares, Fitzroy will apply to ASX for quotation of the new Fitzroy Ordinary Shares on ASX.

Upon completion of the Offers and the Prospectus Offer, Fitzroy considers that it will be in a position to satisfy the requirements of Chapters 1 and 2 of the ASX Listing Rules, resulting in Fitzroy Shares (including the Fitzroy Ordinary Shares to be issued as Fitzroy Consideration Securities) being re-admitted to trading on ASX.

As Fitzroy is listed on ASX, Fitzroy's actions and activities are subject to the ASX Listing Rules.

4.5 Rights and liabilities of Fitzroy Securities

The Fitzroy Consideration Securities offered to 4DS Shareholders under the Offers include Fitzroy Ordinary Shares and Fitzroy Class 1 Performance Shares.

The Fitzroy Ordinary Shares offered are fully paid ordinary shares in the capital of Fitzroy, and from the date of their issue will rank equally with existing Fitzroy Ordinary Shares and will have the same rights and liabilities attaching to them. The rights and liabilities attaching to Fitzroy Ordinary Shares are governed by the Constitution of Fitzroy, the Corporations Act, ASX Listing Rules, ASX Settlement Operating Rules and the general law of Australia.

The Fitzroy Class 1 Performance Shares are shares that will each convert into Fitzroy Ordinary Shares on a one for one basis upon satisfaction of a performance milestone, being Fitzroy announcing that the Expert has delivered a report to Fitzroy confirming that 4DS has achieved "endurance consistency" (the **Milestone**) (refer to clause 1(b) of Annexure E for the full definition of the Milestone). Endurance consistency will be achieved on the first successful duplication of POR cells in two wafers on one or more lots (that are different lots from the lot that defines the POR), as measured by either:

- (a) linear scale endurance yields for 400 cycles where the state current is read after each cycle; or
- (b) logarithmic scale endurance yields for 10,000 cycles where the state current is read 4 times per decade,

that are higher than or equal to 90% for each of the 2 wafers when including all POR cells with sizes up to 3 times the smallest cell size in at least 2 die per wafer. See Section 4.7 below for a "plain English" summary of the Milestone.

Under Section 140(1) of the Corporations Act, the Constitution of Fitzroy has effect as a contract between Fitzroy and each member and between a member of Fitzroy and each other member. Accordingly, if you accept Fitzroy Shares as consideration you will, as a result, become liable to comply with the Constitution of Fitzroy.

Set out below is a summary of the rights and liabilities attaching to Fitzroy Shares. It does not purport to be exhaustive or to constitute a definitive statement of the rights and liabilities of shareholders of Fitzroy. Shareholders should seek their own advice when trying to establish their rights in specific circumstances.

Full details of the rights attaching to Fitzroy Shares are set out in the Constitution, a copy of which is available for inspection at Fitzroy's registered office during normal business hours.

4.6 Rights attaching to Fitzroy Ordinary Shares

The rights, privileges and restrictions attaching to Fitzroy Ordinary Shares can be summarised as follows:

- (a) General meetings

Shareholders are entitled to be present in person, or by proxy, attorney or representative to attend and vote at general meetings of Fitzroy.

Shareholders may requisition meetings in accordance with Section 249D of the Corporations Act and the Constitution.

(b) Voting rights

Subject to any rights or restrictions for the time being attached to any class or classes of Fitzroy Shares, at general meetings of Shareholders or classes of Shareholders:

- (i) each shareholder entitled to vote may vote in person or by proxy, attorney or representative;
- (ii) on a show of hands, every person present who is a shareholder or a proxy, attorney or representative of a shareholder has one vote; and
- (iii) on a poll, every person present who is a shareholder or a proxy, attorney or representative of a shareholder shall, in respect of each fully paid Fitzroy Ordinary Share held by Shareholders, or in respect of which he is appointed a proxy, attorney or representative, have one vote for the Fitzroy Ordinary Share, but in respect of partly paid Fitzroy Ordinary Shares shall have such number of votes as bears the same proportion to the total of such Fitzroy Ordinary Shares registered in the shareholder's name as the amount paid (not credited) bears to the total amounts paid and payable (excluding amounts credited).

(c) Dividend rights

Subject to the rights of any preference Shareholders and to the rights of the holders of any shares created or raised under any special arrangement as to dividends, the Directors may from time to time declare a dividend to be paid to the Shareholders entitled to the dividend which shall be payable on all Fitzroy Ordinary Shares according to the proportion that the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited) in respect of such Fitzroy Ordinary Shares.

The Directors may from time to time pay to the Shareholders any interim dividends as they may determine. No dividend shall carry interest as against Fitzroy. The Directors may set aside out of the profits of Fitzroy any amounts that they may determine as reserves, to be applied at the discretion of the directors, for any purpose for which the profits of Fitzroy may be properly applied.

Subject to the ASX Listing Rules and the Corporations Act, Fitzroy may, by resolution of the directors, implement a dividend reinvestment plan on such terms and conditions as the directors think fit and which provides for any dividend which the directors may declare from time to time payable on Fitzroy Ordinary Shares which are participating Fitzroy Ordinary Shares in the dividend reinvestment plan, less any amount which Fitzroy shall either pursuant to the Constitution or any law be entitled or obliged to retain, be applied by Fitzroy to the payment of the subscription price of Fitzroy Ordinary Shares.

(d) Winding-up

If Fitzroy is wound up, the liquidator may, with the authority of a special resolution of Fitzroy, divide among the Shareholders in kind the whole or any part of the property of Fitzroy, and may for that purpose set such value as he considers fair upon any property to be so divided, and may determine how the division is to be carried out as between the Shareholders or different classes of Shareholders.

The liquidator may, with the authority of a special resolution of Fitzroy, vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Shareholder is compelled to accept any Fitzroy Shares or other securities in respect of which there is any liability.

(e) Shareholder liability

As the Fitzroy Ordinary Shares under the Offer are fully paid shares, they are not subject to any calls for money by the Directors and will therefore not become liable for forfeiture.

(f) Transfer of Shares

Generally, Fitzroy Ordinary Shares are freely transferable, subject to formal requirements, the registration of the transfer not resulting in a contravention of or failure to observe the provisions of a law of Australia and the transfer not being in breach of the Corporations Act or the ASX Listing Rules. See Section 10.11 for information on ASX escrow restrictions which will apply to some Fitzroy Consideration Securities issued under the Offer.

(g) Variation of rights

Pursuant to Section 246B of the Corporations Act, Fitzroy may, with the sanction of a special resolution passed at a meeting of Shareholders vary or abrogate the rights attaching to Fitzroy Shares.

If at any time the share capital is divided into different classes of Fitzroy Shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class), whether or not Fitzroy is being wound up, may be varied or abrogated with the consent in writing of the holders of three-quarters of the issued shares of that class, or if authorised by a special resolution passed at a separate meeting of the holders of the shares of that class.

(h) Alteration of Constitution

The Constitution can only be amended by a special resolution passed by at least three quarters of Shareholders present and voting at the general meeting. In addition, at least 28 days written notice specifying the intention to propose the resolution as a special resolution must be given.

4.7 Rights attaching to Fitzroy Class 1 Performance Shares

The Fitzroy Class 1 Performance Shares are shares that will each convert into Fitzroy Ordinary Shares on a one for one basis upon satisfaction of a performance milestone, being Fitzroy announcing that the Expert has delivered a report to Fitzroy confirming that 4DS has achieved “endurance consistency” (the **Milestone**) (refer to clause 1(b) of Annexure E for the full definition of the Milestone). Endurance consistency will be achieved on the first successful duplication of POR cells in two wafers on one or more lots (that are different lots from the lot that defines the POR), as measured by either:

(a) linear scale endurance yields for 400 cycles where the state current is read after each cycle; or

(b) logarithmic scale endurance yields for 10,000 cycles where the state current is read 4 times per decade,

that are higher than or equal to 90% for each of the 2 wafers when including all POR cells with sizes up to 3 times the smallest cell size in at least 2 die per wafer.

The Fitzroy Class 1 Performance Shares expire on 31 December 2018. To the extent that the Milestone has not been achieved on or before the expiry date, then the Fitzroy Class 1 Performance Shares will automatically consolidate to a nominal number and convert on a one for one basis to a nominal number of Fitzroy Ordinary Shares. The full terms and conditions of Fitzroy Class 1 Performance Shares are set out in Annexure E.

On the basis that the Milestone is drafted with reference to technical criteria which may be outside the scope of expertise of most investors and analysts, ASX requires Fitzroy to provide the following “plain English” summary of the terms and conditions of the Milestone, so that ordinary investors and analysts can more readily understand the circumstances in which the Milestone will be taken to have been met:

- All silicon products used in mobile devices (smartphones, tablets, laptops) and data centres (cold storage and the cloud) are very complex high-volume semiconductor products that need a very high degree of manufacturing consistency and operating consistency to be profitable for the chip maker and affordable for the chip buyer.
- Today’s high-density memory chips contain billions of memory cells together with the control circuits to select certain cells, read their state (“0” or “1”), or write a different state. The smaller the cells, the more data that can be packed into a single chip. Many memory chips are manufactured together on a wafer through a complex sequence of depositing super thin materials and etching away certain sections of these depositions. When all process steps are completed, the wafer is cut into lots of individual memory chips which are then tested, packaged and sold.
- 4DS’s initial focus was to establish a baseline process that could manufacture individual memory cells of various sizes that perform the desired function consistently cell-to-cell on the same wafer and on wafers in the same lot (manufactured together). The first goal was to demonstrate that 4DS had a repeatable process that could manufacture cells on wafers in a new lot that behave very similar to cells on wafers manufactured in an earlier lot (ie, lot-to-lot consistency).
- Having achieved, lot-to-lot consistency, 4DS’s focus is to gradually improve the process in incremental steps to improve the fundamental behaviour of the cell (reading, writing, storing) while maintaining lot-

to-lot consistency. The Milestone is specifically focused on 4DS ReRAM cells reaching a certain endurance level: how many times the state of the cell can be changed reliably from a “0” to a “1”.

- 4DS has entered into the Joint Development Agreement with HGST Netherlands B.V., to investigate the scaling of 4DS ReRAM cells to small cell geometries for memory applications.
- Following the achievement of the Milestone, 4DS will be well positioned to develop arrays of cells, and test chips.
- The Milestone is further detailed in the necessary technical terms in the full terms and conditions of the Fitzroy Class 1 Performance Shares are set out in Annexure E to ensure that the Milestone can be verified and audited using clear metrics by an independent expert.

As required by ASX, Fitzroy will publish the above plain English summary of the Milestone in each annual report until the Fitzroy Class 1 Performance Shares have converted into Fitzroy Ordinary Shares or expired in accordance with their terms.

The full terms and conditions of Fitzroy Class 1 Performance Shares are set out in Annexure E.

4.8 Rights attaching to Fitzroy Existing Performance Shares

The Fitzroy Existing Performance Shares relate to the Company’s previous Premier Coal assets (which the Company has now relinquished). The milestones for conversion of the Existing Performance Shares are now incapable of satisfaction. On 23 December 2016 the Existing Performance Shares will convert into a nominal number of Fitzroy Ordinary Shares. There is no right of conversion of the Fitzroy Existing Performance Shares if there is a change of control in relation to the Company prior to their conversion or expiry.

4.9 Fitzroy options

Fitzroy has granted 29,666,668 options. None of the Fitzroy Options are listed on the ASX. Each Fitzroy Option entitles the holder to subscribe for one Fitzroy Ordinary Share at the respective exercise prices and at any time prior to the corresponding expiry dates set out in Section 4.1 above.

4.10 Shareholders of Fitzroy

As at 30 September 2015, there were 389 Fitzroy Shareholders.

As at 30 September 2015, the top 20 direct Shareholders of Fitzroy were as follows:

| Rank | Fitzroy Shareholder | Number of Fitzroy Ordinary Shares | % of Fitzroy Issued Share Capital |
|------|--|-----------------------------------|-----------------------------------|
| 1 | HOPERIDGE ENTERPRISES PTY LTD | 16,666,667 | 10.19 |
| 2 | OAKTONE NOMINEES PTY LTD <GRIST INVESTMENT A/C> | 15,741,667 | 9.62 |
| 3 | J K NOMINEES PTY LTD <THE J K FUND A/C> | 15,533,334 | 9.50 |
| 4 | TISIA NOMINEES PTY LTD <HENDERSON FAMILY A/C> | 12,500,000 | 7.64 |
| 5 | AVIEMORE CAPITAL PTY LTD | 6,666,667 | 4.08 |
| 6 | NATIONAL NOMINEES LIMITED | 6,173,239 | 3.77 |
| 7 | BANNABY INVESTMENTS PTY LTD <SUPER FUND A/C> | 6,023,225 | 3.68 |
| 8 | MR RICCARDO VITTINO & MRS JACQUELINE VITTINO <THE R & J ACCOUNT A/C> | 4,665,666 | 2.85 |
| 9 | TISIA NOMINEES PTY LTD <HENDERSON FAMILY A/C> | 3,572,672 | 2.18 |
| 10 | MRS SARAH CAMERON | 3,565,392 | 2.18 |
| 11 | MR JASON PETERSON & MRS LISA PETERSON <J & L PETERSON S/F A/C> | 3,400,000 | 2.08 |
| 12 | MOTTE & BAILEY PTY LTD <BAILEY SUPER FUND A/C> | 3,333,334 | 2.04 |
| 13 | CABLETIME PTY LTD <INGODWE A/C> | 3,333,334 | 2.04 |

| Rank | Fitzroy Shareholder | Number of Fitzroy Ordinary Shares | % of Fitzroy Issued Share Capital |
|------|---|-----------------------------------|-----------------------------------|
| 14 | ARGONAUT EQUITY PARTNERS PTY LIMITED | 3,210,000 | 1.96 |
| 15 | SKYE EQUITY PTY LTD | 2,316,664 | 1.42 |
| 16 | KOBIA HOLDINGS PTY LTD | 2,166,667 | 1.32 |
| 17 | WEBINVEST PTY LTD <OLSB UNIT A/C> | 2,000,000 | 1.22 |
| 18 | MR WILLIAM ROBERT DIX & MRS MARION SARAH COLE <DIX SUPERANNUATION FUND A/C> | 1,666,667 | 1.02 |
| 19 | ARGONAUT INVESTMENTS PTY LIMITED <ARGONAUT INVEST NO 3 A/C> | 1,666,667 | 1.02 |
| 20 | TESSOBEL PTY LTD <JEM FAMILY A/C> | 1,666,667 | 1.02 |
| | | 114,313,623 | 69.89 |

As at 30 September 2015, directors of Fitzroy held 6,112,334 Fitzroy Ordinary Shares, being approximately 3.74% of the total number of Fitzroy Ordinary Shares on issue. Refer to Section 10.9 for further details of the interests of the Fitzroy Directors in Fitzroy Securities.

4.11 Substantial shareholders of Fitzroy

Those Shareholders holding a Relevant Interest in 5% or more of the Fitzroy Ordinary Shares on issue as at the date of this Bidder's Statement, so far as is known to Fitzroy based on the substantial shareholder notices lodged with Fitzroy, are set out in the table below.

| Fitzroy Substantial Shareholder | Disclosed number of Fitzroy Ordinary Shares held | Disclosed voting power (%) |
|--|--|----------------------------|
| Hoperidge Enterprises Pty Ltd <The Jones Family Trust> | 16,666,667 | 10.2% |
| JK Nominees Pty Ltd <The JK Fund A/C> | 16,666,666 | 10.2% |
| Tisia Nominees Pty Ltd <Henderson Family A/C> | 16,380,326 | 10.0% |
| Oaktone Nominees Pty Ltd <Grist Investment A/C> | 16,666,666 | 10.2% |

Notes:

1. Based on the number of Fitzroy Ordinary Shares held as stated in the relevant notices lodged with ASX.
2. Actual voting power may differ from that shown above as there is no obligation to publicly disclose changes in voting power of less than 1%.

4.12 Dividend history

Fitzroy has not previously and does not currently pay dividends.

5. Profile of 4DS

5.1 Disclaimer

This overview of 4DS and all financial information concerning 4DS contained in this Bidder's Statement has been prepared by Fitzroy using publicly available information and information provided by 4DS management.

The information in this Bidder's Statement concerning 4DS has not been independently verified. Fitzroy does not, subject to any applicable laws, make any representation or warranty, express or implied, as to the accuracy or completeness of this information. The information on 4DS is not considered to be comprehensive.

5.2 4DS Group structure

4DS was incorporated as a proprietary limited company on 2 March 2007, and converted to an unlisted public company on 9 November 2012. 4DS has a wholly owned US subsidiary (4DS, Inc.), which operates from leased facilities in Fremont, California, in Silicon Valley. 4DS, Inc. undertakes research and development activities pursuant to an intercompany agreement with 4DS, which also provides that all intellectual property arising from such activities vests in and is owned by 4DS.

5.3 4DS board of directors

As at the date of this Bidder's Statement, the directors of 4DS are:

- (a) Mr James Dorrian – Chairman;
- (b) Dr Guido Arnout – Chief Executive Officer;
- (c) Mr David McAuliffe;
- (d) Mr Simon Panton; and
- (e) Mr Kurt Pfluger.

Mr Dorian, Dr Arnout and Mr McAuliffe, together with Mr Howard Digby, will each become a director of Fitzroy upon the Offers becoming Unconditional. Further details regarding each of the proposed directors are set out in Section 7.3(b).

5.4 Information about 4DS Securities

According to documents provided by 4DS to ASIC and from information made available by 4DS management, as at the date of this Bidder's Statement, 4DS's issued securities on issue at the date of Bidder's Statement consisted of the securities set out in the following table, together with the 4DS A Class Shares that will be issued upon the Offers becoming Unconditional:

| Class of security | Number |
|-----------------------|------------------------|
| 4DS Ordinary Shares | 1,205,049 |
| 4DS Preference Shares | 1,865,970 ¹ |
| 4DS Options | 1,237,782 ² |
| 4DS A Class Shares | 242,075 ³ |

Notes:

- 1. The 4DS Preference Shares are voting shares. See below for further details.
- 2. Refer to Annexure D for the principal terms and conditions of the various 4DS Options on issue.
- 3. To be issued upon the Offers becoming Unconditional. The 4DS A Class Shares will carry the same rights as 4DS Ordinary Shares, except that they will have no voting rights.

4DS has two classes of voting share on issue, being the 4DS Ordinary Shares and 4DS Preference Shares).

The rights attaching to 4DS Preference Shares are summarised below:

- (a) **(Voting)** 4DS Preference Shares rank equally with 4DS Ordinary Shares for voting purposes, except that the holders of 4DS Preference Shares shall be entitled to elect one member to the Board of 4DS, and are not entitled to vote on any resolution in relation to the election of any other member of the 4DS Board.
- (b) **(Dividends)** 4DS Preference Shares rank pari passu with 4DS Ordinary Shares in relation to dividends.
- (c) **(Conversion)** 4DS Preference Shares convert into 4DS Ordinary Shares on a one-for-one basis:
 - (i) at any time at the election of the holder; and
 - (ii) automatically on the successful completion of a 4DS IPO.
- (d) **(Redemption)** Holders of 4DS Preference Shares are entitled to a return of capital of \$US1 per 4DS Preference Share together with any declared but unpaid dividends in preference to any payment to holders of 4DS Ordinary Shares:
 - (i) on a liquidation of 4DS (and thereafter will be entitled to participate equally with 4DS Ordinary Shares on a pro rata basis on the distribution of surplus assets); or
 - (ii) in full and final satisfaction of the rights attaching to the 4DS Preference Shares on redemption of the 4DS Preference Shares at the election of the holder on the occurrence of a defined repayment event (broadly, these relate to a change of control of 4DS).

It is a term of the 4DS Preference Shares that they will convert into 4DS Ordinary Shares if 4DS completes a 4DS IPO. Completion of the Offers will from a practical point of view result in a listing of 4DS. On the basis that the 4DS Preference Shares would have automatically converted to 4DS Ordinary Shares on a 4DS IPO, and the voting and dividend rights are otherwise materially the same as those attaching to 4DS Ordinary Shares, Fitzroy is treating them the same as 4DS Ordinary Shares for the purposes of the Offers (ie. their value and the bid consideration is identical).

5.5 Disclosure of Interests of 4DS Directors

| Director | 4DS Ordinary Shares | 4DS Preference Shares | 4DS Options | 4DS A Class Shares |
|------------------------------|---------------------|-----------------------|----------------------|----------------------|
| Mr James Dorrian | 14,644 | 286,584 | 66,138 ² | - |
| Dr Guido Arnout | 14,646 | - | 340,000 ³ | - |
| Mr David McAuliffe | - | - | 34,982 ⁴ | 105,520 ⁷ |
| Mr Simon Panton ¹ | 53,423 | 146,672 | 70,931 ⁵ | - |
| Mr Kurt Pfluger | 195,399 | 6,262 | 94,525 ⁶ | - |

Notes:

- Held in Simon Panton's own name, or by entities he controls, namely Southam Investments 2003 Pty Ltd and Mondo Electronics Pty Ltd.
- Comprising: (a) 10,000 options to acquire an unissued 4DS Preference Share (with an exercise price of USD5.00 and expiring on 31 December 2017); (b) 11,138 options to acquire an unissued 4DS Preference Share (with an exercise price of USD10.00 and expiring on 30 June 2018); and (c) 45,000 options to acquire an unissued 4DS Ordinary Share (with an exercise price of USD10.00 and expiring on 31 October 2018).
- Comprising 340,000 options to acquire an unissued 4DS Ordinary Share (with an exercise price of US\$1.00 and expiring on 31 December 2017).
- Comprising: (a) 10,000 options to acquire an unissued 4DS Ordinary Share (with an exercise price of USD5.00 and expiring on 31 December 2017); (b) 15,000 options to acquire an unissued 4DS Preference Share (with an exercise price of USD10.00 and expiring on 31 December 2017; and (c) 9,982 options to acquire an unissued 4DS Ordinary Share (with an exercise price of USD10.00 and expiring on 31 October 2018).
- Comprising: (a) 15,000 options to acquire an unissued 4DS Ordinary Share (with an exercise price of USD10.00 and expiring on 31 October 2018); (b) 45,000 options to acquire an unissued 4DS Ordinary Share (with an exercise price of

USD5.00 and expiring on 31 December 2017; and (c) 10,931 options to acquire an unissued 4DS Preference Share (with an exercise price of USD10.00 and expiring on 30 June 2018).

6. Comprising: (a) 75,000 options to acquire an unissued 4DS Ordinary Share (with an exercise price of USD5.00 and expiring on 31 December 2017; (b) 4,525 options to acquire an unissued 4DS Preference Share (with an exercise price of USD10.00 and expiring on 30 June 2018; and (c) 15,000 options to acquire an unissued 4DS Ordinary Share (with an exercise price of USD10.00 and expiring on 31 October 2018).
7. To be issued upon the Offers becoming Unconditional. The 4DS A Class Shares will carry the same rights as 4DS Ordinary Shares, except that they will have no voting rights.

5.6 Overview of 4DS's activities and projects

4DS's business is the development of intellectual property pertaining to non-volatile memory storage known as "ReRAM" which may become a replacement for more traditional "Flash" memory storage.

(a) 4DS Technology: Overview of MOHJO™

4DS is developing emerging non-volatile memory called "Resistive Random Access Memory" (**ReRAM**) with potential technological advantages to other known ReRAM cells in development making it a realistic candidate to replace NAND Flash (**Flash**) as the dominant standard for storage class memory. 4DS owns 15 US patents for its technology and materials deposition process (comprising 13 granted patents and 2 pending applications), together with several related patents in other key jurisdictions (see Section 5.6(g) for more information on the 4DS patent portfolio). At the heart of 4DS's memory is the MOHJO™ hetero junction, explained in more detail below.

ReRAM developments have been well documented by many different companies and research institutions and are part of an emerging memory market segment called "emerging Non-Volatile Memory" described in Section 5.6(f) below. Most ReRAM cells consist of a switching material sandwiched between two electrodes. These cells are then arranged in a cell matrix to form a memory array. A voltage is applied to the memory cell causing the resistance to change. The resistive change is reversible by changing the applied voltage. The change in resistance establishes the "On" and "Off" states (or "1" and "0" states). This is called the "switching mechanism".

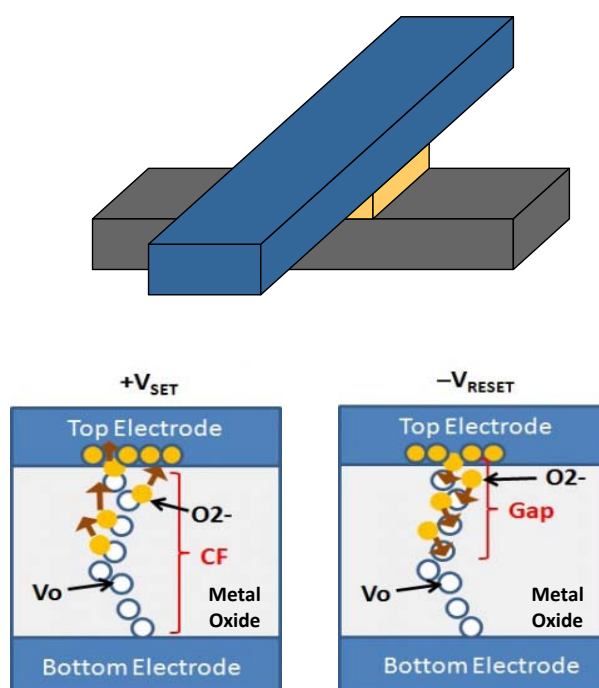


Figure 1 Basic ReRAM cell operation with filamentary switching system

Figure 1 describes a common filamentary switching system used in most ReRAM developments. Other ReRAM developments that use a filamentary switching mechanism need to overcome a number of potential shortcomings including:

- lack of control – the filament is a kind of short circuit between the electrodes that is somewhat random and difficult to control;

- the nature of forming and reforming filaments lead to difficulties with endurance; and
- as cells get smaller, the filamentary current is the same, leading to larger current densities which restricts the ability to scale (down).

4DS avoids this issue altogether because its MOHJO™ hetero junction does not rely on the formation of a filament. Instead, the overall MOHJO™ memory cell reduces and increases its resistance to form the “On” and “Off” states. This gives it a number of potential advantages and makes it a strong potential candidate to replace Flash memory in the future.

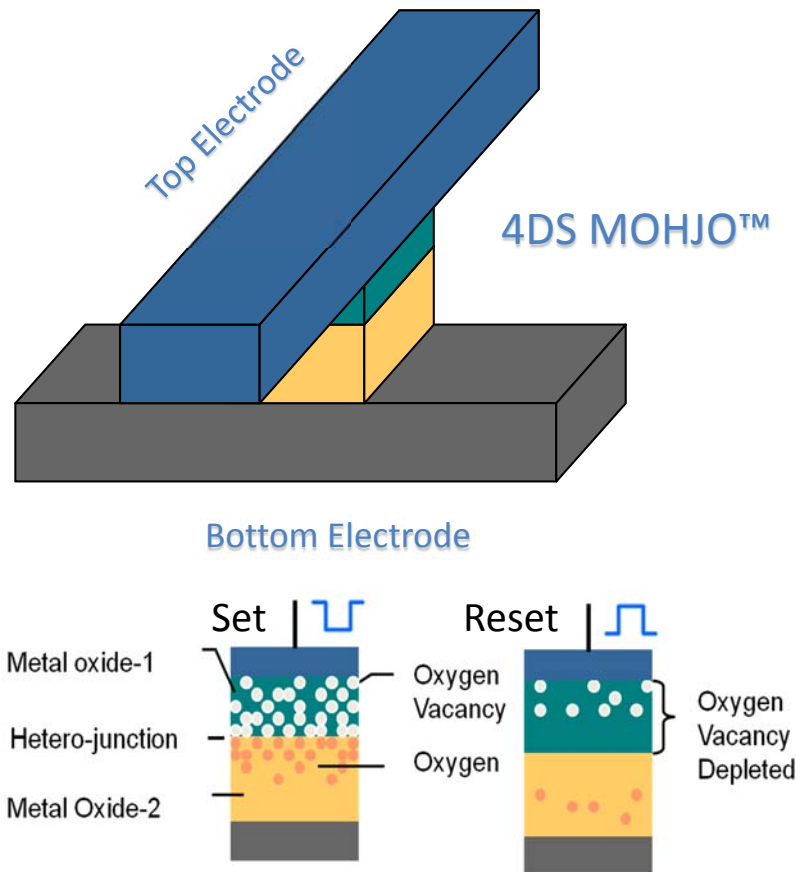


Figure 2 4DS MOHJO™ heterojunction non-filamentary switching mechanism.

Approximately US\$10 million has been invested in developing 4DS's ReRAM technology since 2007. 4DS owns 15 US patents for material composition and deposition process and mechanism of action (comprising 13 granted patents and 2 pending applications), together with several related patents in other key jurisdictions (see Section 5.6(g) for more information on the 4DS patent portfolio).

(b) 4DS Business Model and Strategy

Joining the short list of high-volume high-density memory makers is cost prohibitive for anyone not already volume manufacturing memory products today: the cost to setup and operate a high-volume high-density memory fabrication plant (known as a fab) is in the order of US\$10 billion. Hence, becoming a new memory maker is unrealistic.

Recently, due to the consolidation of semiconductor manufacturers, the goals of large memory makers have shifted from manufacturing the most product to owning the best intellectual property. This in turn drives acquisitions of successful start-up technology companies.

Since many breakthrough inventions happen within start-up technology companies, the challenge is how to get noticed. Memory makers want to see proof that a developer can make the best high-density memory, which is not always realistic given the resources of start-up technology companies and the stage of development of their technology.

Fortunately, leading memory users (manufacturers of devices that use memory) often have a need for special memory products tailored to their specific needs (somewhere between standard DRAM and standard Flash).

(c) 4DS Research and Development

In order to demonstrate sufficient progress to indicate that production of commercial product is viable, 4DS must demonstrate scalability (small memory cell size with small space between memory cells) and consistency of its memory cell behaviour.

This requires a process of simultaneous and continuous improvement of (i) the memory cell architecture, (ii) the manufacturing process, and (iii) the PCMO deposition equipment, complemented with semi-automated test procedures to gather statistical data for yield analysis, fundamental cell behaviour, cycling endurance and data retention in order to monitor progress. 4DS has already demonstrated a functional cell and lot-to-lot consistency of different wafers with high yield. (Yield is the percentage of memory cells in a given array that pass all tests and function properly.)

Following the completion of the Offers and the Prospectus Offer, the Company intends to apply significant funds to 4DS's research and development activities. Funds will be applied in the course of business supported by a business plan, a budget, within the confines of a financial authorization framework and supported by directors' resolutions if necessary or by exception.

These funds will be spent on meeting the cost of 4DS employees working on the research and development, lease costs associated with its premises and test equipment, and improvements to its deposition equipment.

4DS has a highly experienced and qualified technical team to oversee and perform its research and development activities and as noted in Section 5.6(h) below it is proposed that 4DS's Managing Director will be engaged from completion of the Offers in an equivalent role with the Company, and 4DS's Chief Engineering Officer will continue in his current role with 4DS, Inc.

As set out in Section 4.7 the Milestone for conversion of the Class 1 Performance Shares is specifically focussed on endurance levels for 4DS's memory cells.

If 4DS is successful in taking the MOHJO™ ReRAM technology to this point, it will have the potential to stand out among other market players as the first viable ReRAM product for major storage applications. Having access to this technology, if successfully developed by 4DS, will potentially be enormously commercially significant for mobile device manufacturers and solid-state storage (SSD) device producers.

(d) Joint Development Arrangements

4DS is currently engaged in a joint-development with a global storage leader, HGST Netherlands B.V. (**HGST**), with the goal of optimizing its memory cell and manufacturing process. HGST helps organizations harness the power of data through a broad portfolio of proven, smarter storage solutions. Entry into the joint development arrangements provides 4DS with resources which may expedite the development, and potential commercialisation, of 4DS's technology.

The Joint Development Agreement (**JDA**) governing the co-development has been in force since June 2014 and was renewed in June 2015. It is next due for renewal on 30 June 2016. Part of 4DS's development work is currently being carried out under a scope of work which has been agreed with HGST under the JDA. See Section 5.6(c) above for further details on 4DS's development work, and see Section 5.6(i) below for a summary of the terms of the Joint Development Agreement.

Whilst in the absence of the Joint Development Agreement 4DS's focus would be on the same steps that have been identified in the scope of work, under the Joint Development Agreement, 4DS is able to benefit from the resources and technical expertise of HGST as a global storage leader.

The scope of work with HGST mainly deals with material improvements, scaling objectives, and cell evaluation objectives, which include testing of endurance and data retention among other factors. This supports the performance milestone for 4D-S vendors.

Once significant progress is made to prove scale and consistency of its memory cells, this will attract the attention of the “memory community” (both makers and users) and opportunities to license the technology could arise, including pursuant to the License Option held by HGST as detailed in Section 5.6(i).

(e) 4DS Customers and Revenue Model

As 4DS is in a state of advanced R&D, it does not have revenues for its MOHJO™ product. The company strategy is outlined in Section 5.6(b). As 4DS is currently in the development phase, no decision has been made regarding the method of commercialising its technology should development be successful. Eventual revenues may involve licensing to major memory makers and users of memory (including potential license fees under the Joint Development Agreement described in Section 5.6(i)). Licensing fees with other memory makers and memory users may involve one-off license fees, ongoing royalties or a combination of the two. There is a possibility that a major company may choose to acquire the 4DS technology, if it succeeds in its development goals.

4DS is a development company with no history of revenue generation. 4DS will over the next 12 months focus on the enhancement and testing of its technology under the Joint Development Agreement. There can be no guarantee that 4DS will be able to successfully develop and commercialise its technology. Accordingly, an investment in the Company should be considered speculative and high risk.

(f) Industry Overview

(i) Introduction to the Memory Market

Memory underpins everything in the digital world. Memory is used as “core memory” in computers and devices (volatile memory) and as persistent storage in computers and devices (non-volatile memory, **NVM**). Increasingly, hard disk drives are being replaced by memory chips and are known as Solid State Drives (**SSDs**).

The memory market is characterized by the market expectation for continuously more memory at a lower cost. Historically, this has been achieved by scaling the memory cell size (often referred to as Moore’s Law) to make it smaller, and other scales of economy. The fundamental driver of the need for more NVM is the demand for storage.

It is estimated that 90% of data stored today was created in the last two years. To give a real world example: Amazon Web Services, a world leading cloud services provider, adds more storage capacity every day than its e-commerce parent, Amazon.com, had in total in 2004, when Amazon.com the retailer was one-tenth its current size at \$7 billion in annual revenue.

Semiconductor industry analysts have long unsuccessfully forecast the demise of conventional semiconductor memory technologies such as Flash and DRAM. The ingenuity of engineers has kept these dire predictions at bay, finding methods to continue scaling, in keeping with Moore’s Law.

However, the industry now faces a plethora of scaling limitations all converging toward the “brick wall” long predicted by the industry analysts.

The industry does not expect FLASH to scale much below 16 nanometres (**nm**) per memory cell and DRAM much below 22 nm and a new memory technology is needed to break through these scaling barriers.

In the next few years it is expected that Flash density increase will reach its limit based on:

- the laws of physics and fundamental geometry that limits the ability to scale Flash memory further;
- the current rate of scaling down of state of the art NAND Flash;
- every top memory market player has spent the last decade researching NVM that can transcend 10 nm, with some players diverting energy and resources into developing 3D Flash; and

- 3D NAND Flash is one solution to the Flash scaling impasse. This is expected to allow continued memory density increase and lower cost for the next several years, however an increasing focus has been on the development of emerging NVM.

Given the scaling challenges of these incumbent memory technologies, the industry is feverishly pursuing alternate memory technologies, setting the stage for the market entry of emerging memory technologies. Most emerging memory technologies afford significant performance advances over incumbent technologies. Notably, nearly all technologies offer retention time constants of hours, if not years – far exceeding DRAM. Similarly, the write times of many of these technologies are 10–100 nanoseconds – far exceeding Flash. So both DRAM and Flash have a number of potential technology successors. It is also possible that some types of emerging NVM may be able to replace both Flash and DRAM.

(ii) Overview of the Resistive Random Access Memory (ReRAM) market

ReRAM is one of a number of new technologies that are candidates to replace Flash as the next generation of storage class NVM. The nascent ReRAM market is very small with only one player, Adesto with a shipping ReRAM chip. Therefore it is more helpful to talk about emerging NVM as a defined and growing segment of the overall memory market.

(iii) Worldwide memory market

The 2015 semiconductor memory market is forecast to be approximately US\$80 billion with a CAGR (compound annual growth rate) of more than 15%. The leading manufacturers of high-volume high-density non-volatile Flash memory are: Samsung, Toshiba/Sandisk, SK Hynix, and Micron/Intel.

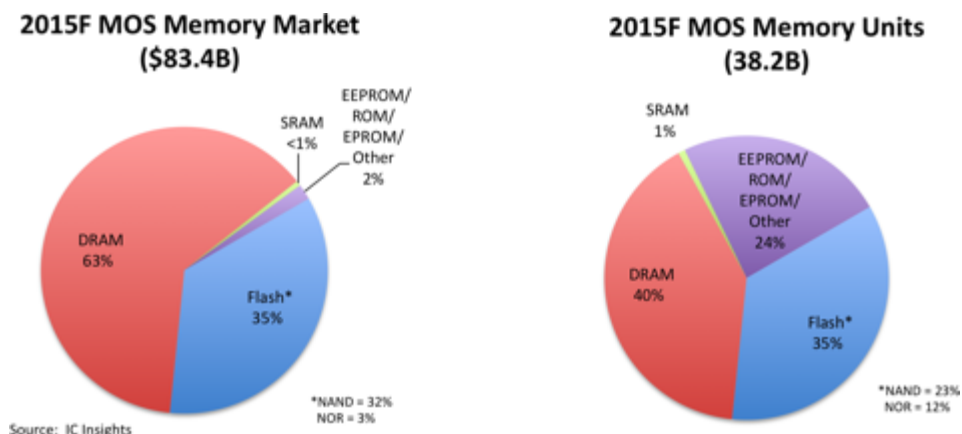


Figure 3 2015 memory market breakdown according to IC Insights

Increased demand for data storage capacity is the primary driver of increased demands for higher density, memory. This has been manifest recently in the increased use of smartphones, tablets and laptops. However, emerging market trends show a changing demographic according to research firms specialising in the semiconductor market:

- Enterprise storage (hosted in private or public clouds) will be by far the largest market by 2020. Cloud data centres, previously contained racks of hard drives, which are now being replaced by SSDs comprised of non-volatile memory.
- The second largest market segment in 2020 is expected to be memory needed for wearable technologies – due to strong demand for low energy memory.

With this in mind, the biggest opportunity for emerging NVM hopefuls, including 4DS, is to replace Flash as the dominant standard for Cloud and mobile use, with a view to target the market for wearable technology (**wearables**) in the future. Mobile storage is dominant today but its growth will eventually be limited to population growth (and how long users keep the same device). Wearables will increase the amount of memory demand, but this segment too, will eventually be contained to population growth. However, there does not seem to be

anything limiting the growth of the storage in the cloud and significant evidence exists to date showing a staggering growth in the amount of data generated and stored worldwide.

(g) 4DS Patent Portfolio

The 4DS patent portfolio comprises 15 active patents or patent applications in the US (of which 13 have been granted, with 2 remaining pending) and several related patents in other key jurisdictions. The table below summarizes the patent portfolio of 4DS.

| | Title | US Patent Numbers | Foreign applications listed on EPO database |
|---|--|---|--|
| 1 | Back-biased face target sputtering | 6,962,648 | EP 1670968 (Europe), JP 2008542525 (Japan) |
| 2 | Systems and methods for plasma etching | 7,425,504 | |
| 3 | Systems and methods for fabricating self-aligned memory cell | 8,367,513, 8,395,199, 8,466,032, 8,884,401 and application US 13/759077 | |
| 4 | Voltage excited piezoelectric resistance memory cell system | 7,985,960 | |
| 5 | Systems and methods for magnetron deposition | 8,308,915 | |
| 6 | Heterojunction oxide non-volatile memory device | 8,378,345, 8,698,120 and application US 14/186273 | CN 102365746 (China), EP 2465140 (Europe), JP 2012525016 (Japan), KR 10-1392662-0000 (Korea) |
| 7 | Dual hexagonal shaped plasma source | 8,454,810, 8,911,602 | |
| 8 | Method and system for utilizing perovskite material for charge storage and as a dielectric | 8,709,891 | |

(h) Management of 4DS

The key management personnel of 4DS (who will become the key management personnel of the Company following completion of the Offers) are as follows:

(i) Dr Guido Arnout (Managing Director)

Dr Guido Arnout was founding President & CEO of PowerEscape which introduced the first tools for the development of low-power software executing on multi-core devices. He was founding President & CEO of CoWare which pioneered system-level design tools for hardware-software co-design and the time-based licensing business model. He co-founded the Open SystemC Initiative (OSCI), an industry consortium to standardize a language for system level design, and as its President submitted the SystemC language to IEEE. He served as VP of Engineering and later senior VP of marketing of CrossCheck Technology. He co-founded and later became VP of Engineering of Silvar-Lisco, the first commercial EDA (electronic design automation) company. Dr Arnout received his PhD in electrical engineering from the University of Leuven in Belgium.

(ii) Michael Van Buskirk (Chief Engineering Officer)

Michael Van Buskirk has held executive roles with a number of leading memory companies in Silicon Valley. He was the Chief Technology Officer at Adesto Technologies Corporation, where he initiated and directed its second and third generation CBRAM™ technology to make it suitable for broad market acceptance. He served as the Chief Operating Officer at Innovative Silicon, Inc., where he co-invented and developed its ultra-low voltage Z-RAM™

vertical floating body memory technology. Michael was also the Chief Technology Officer at Spansion, Inc., the flash memory joint venture between Advanced Micro Devices (AMD) and Fujitsu, where he integrated and oversaw the former Fujitsu and AMD flash memory engineering teams. Prior to the establishment of Spansion in 2003, Michael had spent 17 years with AMD where he reached the position of Vice-President of Engineering, Memory Group. Michael holds a Bachelor of Science in Electrical Engineering from Oregon State University.

(i) Joint Development Agreement

As noted in Section 5.6(e), 4DS has entered into the Joint Development Agreement (**JDA**) with HGST. The material terms of the Joint Development Agreement are:

- (i) The parties will work together on an agreed scope of work in a collaboration effort to build, test and evaluate 4DS technology. The parties have completed the first scope of work, and are currently carrying on work under a second agreed scope of work. See Section 5.6(c) above for further details on development work being undertaken with HGST under the scope of work which has been agreed with HGST under the JDA. There are no specific expenditure commitments under the JDA. Each party is responsible for its own expenses incurred in connection with the JDA.
- (ii) The term of the Joint Development Agreement expires on 30 June 2016, unless extended by agreement between the parties. Either party may terminate the Joint Development Agreement without cause on 30 days' written notice to the other party.
- (iii) In relation to intellectual property ownership:
 - (A) each party retains ownership of its background intellectual property (see Section 5.6(g) for details of 4DS's patent portfolio); and
 - (B) the parties jointly own all intellectual property jointly created under the JDA, and each party has a license to use such intellectual property on a royalty free basis.
- (iv) 4DS grants an option (**License Option**) to HGST to take a non-exclusive license for HGST to use 4DS's technology for up to 20 years from exercise of the License Option. Whilst the quantum of the license fees is confidential, the fees payable are lower than the fees 4DS expects to be able to generate from licensing the technology to other parties if the technology can be successfully commercialised.
- (v) 4DS is required to notify HGST of any acquisition proposal or financing proposal in relation to 4DS.

5.7 4DS financial information

- (a) The historical consolidated statements of financial position of 4DS are set out below and have been extracted from the audited consolidated statements of financial position as at the end of the financial years ended 30 June 2013, 30 June 2014 and 30 June 2015, being the last three audited consolidated statements of financial position prior to the date of this Bidder's Statement.

| | 2015 \$ | 2014 \$ | 2013 \$ |
|--------------------------------------|--------------------|----------------|------------------|
| CURRENT ASSETS | | | |
| Cash and cash equivalents | 9,106 | 110,100 | 153,800 |
| Trade and other receivables | 42,357 | 7,044 | 217,965 |
| TOTAL CURRENT ASSETS | 51,463 | 117,144 | 371,765 |
| NON-CURRENT ASSETS | | | |
| Property, plant and equipment | 18,326 | 10,030 | 2,585 |
| TOTAL NON-CURRENT ASSETS | 18,326 | 10,030 | 2,585 |
| TOTAL ASSETS | 69,789 | 127,174 | 374,350 |
| CURRENT LIABILITIES | | | |
| Trade and other payables | 126,356 | 132,669 | 65,884 |
| Borrowings | 771,115 | - | 684,111 |
| TOTAL CURRENT LIABILITIES | 897,471 | 132,669 | 749,995 |
| NON-CURRENT LIABILITIES | | | |
| Borrowings | 235,500 | - | - |
| TOTAL NON-CURRENT LIABILITIES | 235,500 | - | - |
| TOTAL LIABILITIES | 1,132,971 | 132,669 | 749,995 |
| NET (DEFICIENCY)/ASSETS | (1,063,182) | (5,495) | (375,645) |
| EQUITY | | | |
| Issued capital | 10,574,049 | 10,574,049 | 9,302,979 |
| Reserves | 1,363,414 | 1,116,249 | 18,099 |
| Accumulated losses | (13,000,645) | (11,695,793) | (9,696,723) |
| TOTAL EQUITY | (1,063,182) | (5,495) | (375,645) |

- (b) The historical consolidated statements of comprehensive income of 4DS are set out below and have been extracted from the audited consolidated statements of comprehensive income for the financial years ended 30 June 2013, 30 June 2014 and 30 June 2015, being the last three audited consolidated statements of financial performance prior to the date of this Bidder's Statement.

| | 2015 \$ | 2014 \$ | 2013 \$ |
|--|-------------|-------------|-------------|
| Revenue | 13 | 69 | 257 |
| Foreign exchange loss | (94,906) | (14,809) | (10,934) |
| Employee benefits expense | (254,573) | (193,167) | (371,146) |
| Research expense | (22,498) | (104,526) | (154,377) |
| Share-based payment expense | (233,840) | (1,024,791) | - |
| Other expenses | (699,048) | (661,846) | (841,463) |
| Loss before income tax expense | (1,304,852) | (1,999,070) | (1,377,663) |
| Income tax expense | - | - | - |
| Loss for the year | (1,304,852) | (1,999,070) | (1,377,663) |
| Other comprehensive income | - | - | - |
| Total comprehensive loss attributable to members of the entity | (1,304,852) | (1,999,070) | (1,377,663) |

5.8 4DS website

4DS maintains a website, www.4-d-s.com, which contains further information about 4DS and its operations.

5.9 Publicly available information about 4DS

4DS is not a disclosing entity for the purposes of the Corporations Act and as such is not subject to regular reporting and disclosure obligations. 4DS is required to lodge various documents with ASIC. Copies of documents lodged with ASIC by 4DS may be obtained from, or inspected at, an ASIC office.

6. Merged Entity

6.1 Approach

This Section 6 provides an overview of Fitzroy and its subsidiaries in the event of the acquisition by Fitzroy of all, or a majority of the 4DS Securities on issue (**Merged Entity**), in the various scenarios following the Offers and the effect of the Offers on Fitzroy and 4DS.

6.2 Disclaimer regarding 4DS and the Merged Entity information

In preparing the information relating to 4DS and the Merged Entity contained in this Bidder's Statement, Fitzroy has relied on publicly available information and information provided by 4DS management relating to 4DS and this has not been independently verified by Fitzroy or its Directors. Risks may exist in relation to 4DS (which may affect the Merged Entity) of which Fitzroy is unaware. If any material risks are known to the directors of 4DS, they must be disclosed in the target's statement to be issued by 4DS.

Accordingly, subject to any applicable laws, Fitzroy makes no representations or warranties (express or implied) as to the accuracy and completeness of such information.

6.3 Profile of the Merged Entity

If the Offers are successful, and if Fitzroy is successful in obtaining effective control of 4DS, all of Fitzroy's shareholders (including 4DS Shareholders who have received Fitzroy Securities pursuant to the Offers of the Private Treaty) will be shareholders in the Merged Entity.

6.4 Effect of the completion of the Offer

Fitzroy plans to continue with 4DS's plans to develop its ReRAM technology.

The Merged Entity will lead to a strengthening and simplification of the current management arrangements and should achieve cost savings by reducing corporate overheads.

4DS and Fitzroy existing shareholders will be exposed to the benefits of the Merged Entity and the upside inherent in 4DS's ReRAM technology.

6.5 Effect on the assets and operations of the Merged Entity

Other than as referred to elsewhere in this Bidder's Statement, the acquisition of 4DS is not expected to have a material effect on the existing assets and operations of Fitzroy.

As announced by the Company on 7 July 2014, Fitzroy has sold 51% of its Rookwood base metals exploration project in Queensland to Zenith Minerals Limited (**Zenith**). Zenith has an exclusive option to acquire the remaining equity in the Rockwood Project.

As noted in the Company's Quarterly Report for the period ending 30 June 2015, the Company has given notice to Emmaus Partners LLC and Blackstone Energy Corporation that it will be withdrawing from the US coking coal sector, and has commenced the process of winding up its US operations and subsidiaries.

If Fitzroy acquires all 4DS Securities on issue the merger will consolidate 4DS and Fitzroy's assets (predominantly its cash assets) under a single entity listed on ASX, creating a stronger platform to promote the Merged Entity to investors and key stakeholders.

The Merged Entity will have a stronger financial position with an unaudited pro forma net cash position of approximately \$3.35 million (based on the unaudited pro forma net cash position held at 30 June 2015) and the portfolio of 4DS intellectual property assets.

6.6 Effect of the Offer on Fitzroy's capital structure if Fitzroy acquires all 4DS Securities

| Ordinary Shares | Number |
|---|-------------------------|
| Fitzroy Ordinary Shares on issue at date of Bidder's Statement | 163,552,872 |
| Fitzroy Ordinary Shares to be issued under the Offers and Private Treaty Offers | 385,603,642 |
| Fitzroy Ordinary Shares to be issued under the Prospectus Offer | 90,000,000 ¹ |
| Total Fitzroy Ordinary Shares on issue at completion of the Offers and Private Treaty Offers | 639,156,514 |

| Existing Performance Shares | Number |
|--|------------------------|
| Fitzroy Existing Performance Shares | 6,666,669 ² |
| Total Fitzroy Existing Preference Shares on issue at completion of the Offers and Private Treaty Offers | 6,666,669 |

| Class 1 Performance Shares | Number |
|---|-------------------------|
| Fitzroy Class 1 Performance Shares | 67,604,019 ³ |
| Total Fitzroy Class 1 Preference Shares on issue at completion of the Offers and Private Treaty Offers | 67,604,019 |

| Options | Number |
|---|-------------------------|
| Fitzroy Options currently on issue | 29,666,668 ⁴ |
| Fitzroy Options to be issued under the Private Option Offers | 36,458,333 ⁵ |
| Fitzroy Adviser Options issued to Advisers | 30,000,000 ⁶ |
| Total Fitzroy Options on issue at completion of the Offers and Private Option Offers | 96,125,001 |

Notes:

1. Assumes the minimum subscription of \$2.25 million is raised under the Prospectus offer. Oversubscriptions of \$500,000 may be raised through the issue of an additional 20,000,000 Fitzroy Ordinary Shares.
2. Existing Performance Shares related to the Company's previous Premier Coal assets (which the Company has now relinquished). The milestones for conversion of the Existing Performance Shares are now incapable of satisfaction. On 23 December 2016 the Existing Performance Shares will convert into a nominal number of Fitzroy Ordinary Shares. There is no right of conversion of the Existing Performance Shares if there is a change of control in relation to the Company prior to their conversion or expiry.
3. Subject to the performance based Milestone set out in clause 1(b) of Annexure E.
4. Existing Fitzroy Options: 26,666,668 options each exercisable at \$0.024 on or before 10 May 2018 and 3,000,000 options each exercisable at \$0.042 on or before 25 June 2018.
5. Fitzroy Options each exercisable at \$0.02 on or before 30 June 2020.
6. Fitzroy Options each exercisable at \$0.05 on or before 30 June 2020.

6.7 Effect on the substantial shareholders

If the Offers are successful and Fitzroy acquires all 4DS Securities on issue the following are expected to be substantial shareholdings:

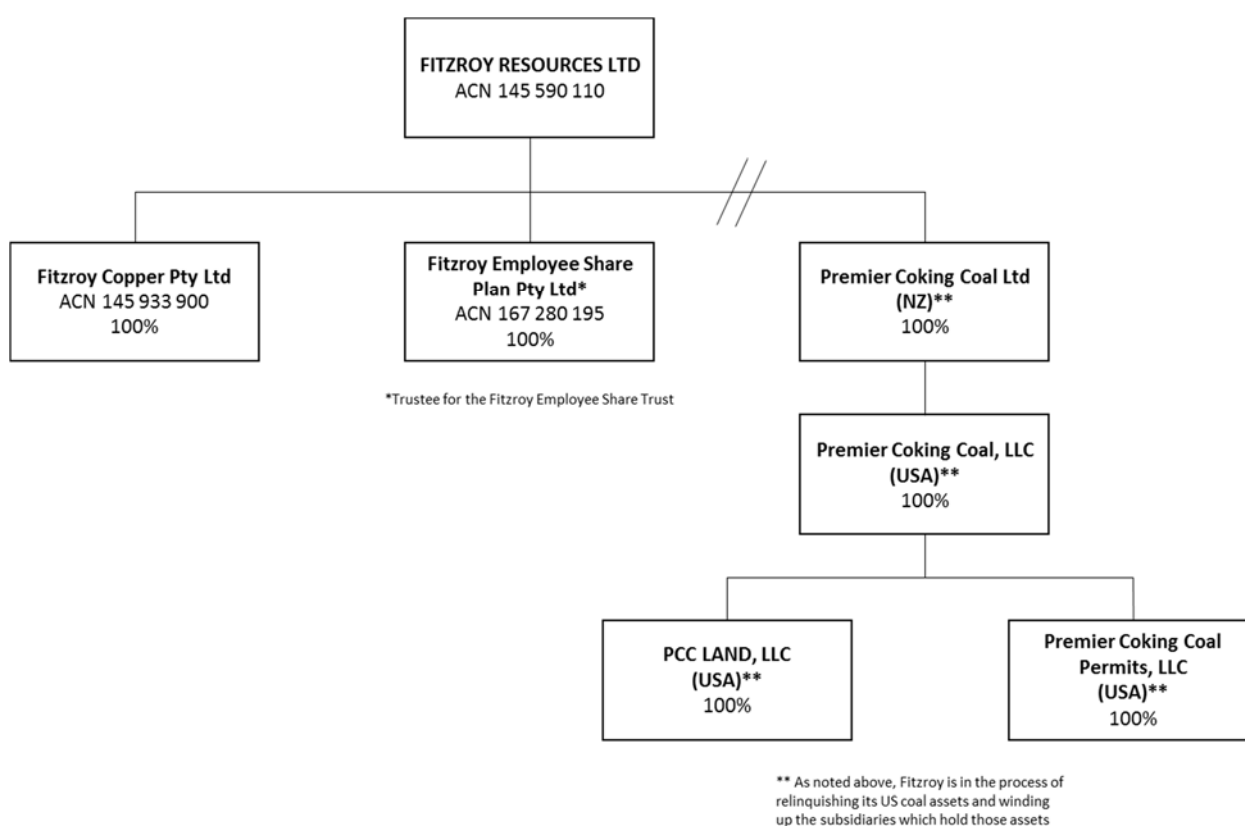
| Substantial Shareholder | Number of Fitzroy Ordinary Shares Held | Voting Power (%) |
|-------------------------|--|------------------|
| James Dorrian | 35,045,807 | 5.48% |

Notes:

Assumes the minimum amount of \$2,250,000 is raised under the Prospectus Offer.

6.8 Corporate structure of the Merged Entity

If the Offer is successful and Fitzroy acquires all 4DS Securities on issue, the corporate structure of the Merged Entity will be as shown in the diagram below.



6.9 Financial Information of the Merged Entity

(a) Value of the purchase consideration

On 13 August 2015, Fitzroy announced the execution of the Bid Implementation Agreement, setting out a proposal to acquire all of the outstanding fully paid ordinary shares and preference shares in 4DS by way of off-market takeover offers. Under the Offers, accepting 4DS shareholders will receive a combination of Fitzroy Ordinary Shares and Fitzroy Class 1 Performance Shares for every 4DS Ordinary Share or 4DS Preference Share held.

The implied value of the offer (excluding the value of Fitzroy Ordinary Shares issued upon conversion of the Fitzroy Class 1 Performance Shares) is US\$3.87 per 4DS Preference Share based on Fitzroy's closing share price on 10 August 2015 (being the last day Fitzroy Shares traded on ASX prior to the Announcement Date) of A\$0.050 and a A\$/US\$ exchange rate of 0.70. The value of the Offer may change as a consequence of changes in the market price of Fitzroy Ordinary Shares.

It is a term of the 4DS Preference Shares that they will convert into 4DS Ordinary Shares if 4DS completes a 4DS IPO. Completion of the Offers will from a practical point of view result in a listing of 4DS. On the basis that the 4DS Preference Shares would have automatically converted to 4DS Ordinary Shares on a 4DS IPO, and the voting and dividend rights are otherwise materially the same as those attaching to 4DS Ordinary Shares, Fitzroy is treating them the same as 4DS Ordinary Shares for the purposes of the Offers (ie. their value and the bid consideration is identical).

(b) Overview

This Section contains an unaudited pro forma consolidated statement of financial position that has been prepared in connection with the proposed acquisition of 4DS by Fitzroy. The unaudited pro forma consolidated statement of financial position has been prepared for illustrative purposes only and gives effect to the acquisition by Fitzroy pursuant to the assumptions described in the notes to the pro forma consolidated statement of financial position. The unaudited pro forma consolidated statement of financial position as at 30 June 2015 gives effect to the transaction by Fitzroy as if it had occurred as of 30 June 2015.

The unaudited pro forma consolidated statement of financial position is not necessarily indicative of the financial position that would have been achieved if the transaction had been completed on the dates or for the periods presented, nor does it purport to project the results of operations or financial position of the consolidated entities for any future period or as of any future date. The audited pro forma consolidated statement of financial position does not reflect any special items such as integration costs or operating synergies that may be incurred or achieved as a result of the transaction.

The unaudited pro forma consolidated statement of financial position has been prepared in accordance with the recognition and measurement principles of the International Financial Reporting Standards (IFRS).

In preparing the audited pro forma consolidated statement of financial position in accordance with IFRS, the following historical information was used:

- (i) the audited accounts of Fitzroy as of 30 June 2015; and
- (ii) the audited accounts of 4DS as of 30 June 2015.

In preparing the pro forma consolidated statement of financial position no alignment has been made between the accounting policies of Fitzroy and 4DS.

The unaudited pro forma consolidated statement of financial position should be read in conjunction with the historical financial statements of both Fitzroy and 4DS.

The acquisition of 4DS, if completed, will be accounted for as a business combination with 4DS as the acquirer of Fitzroy under reverse acquisition treatment.

| | Fitzroy Audited 30 June 2015 \$ | 4DS Audited 30 June 2015 \$ | Pro forma adjustments \$ | Fitzroy Unaudited pro forma 30 June 2015 \$ |
|--------------------------------------|--|--|---|--|
| Current Assets | | | | |
| Cash and cash equivalents | 1,123,482 | 9,106 | 2,179,000 | 3,311,588 |
| Trade, other receivables and | 22,124 | 42,357 | - | 64,481 |
| Other current assets | 20,000 | - | - | 20,000 |
| Total Current Assets | 1,165,606 | 51,463 | 2,179,000 | 3,396,069 |
| Non-Current Assets | | | | |
| Property, plant and equipment | 10,872 | 18,326 | - | 29,198 |
| Deferred exploration and evaluation | 420,000 | - | - | 420,000 |
| Total Non-Current Assets | 430,872 | 18,326 | - | 449,198 |
| TOTAL ASSETS | 1,596,478 | 69,789 | 2,179,000 | 3,845,267 |
| Current Liabilities | | | | |
| Trade and other payables | 90,378 | 126,356 | - | 216,734 |
| Borrowings | 26,381 | 771,115 | (771,115) | 26,381 |
| Total Current Liabilities | 116,759 | 897,471 | (771,115) | 243,115 |
| Non-Current Liabilities | | | | |
| Borrowings | - | 235,500 | (235,500) | - |
| Total Non-Current Liabilities | - | 235,500 | (235,500) | - |
| TOTAL LIABILITIES | 116,759 | 1,132,971 | (1,006,615) | 243,115 |
| NET ASSETS | 1,479,719 | (1,063,182) | 3,185,615 | 3,602,152 |
| EQUITY | | | | |
| Contributed equity | 10,660,731 | 10,574,049 | 101,912 | 21,336,691 |
| Reserves | 1,090,134 | 1,363,414 | 1,002,885 | 3,456,434 |
| Accumulated losses | (10,271,146) | (13,000,645) | 2,080,818 | (21,190,973) |
| Total Equity | 1,479,719 | (1,063,182) | 3,185,615 | 3,602,152 |

The pro-forma financial information contains the following pro-forma adjustments:

1. Capital raising of \$2,250,000 plus oversubscriptions of \$500,000, less costs of 6%.
2. Transaction costs of \$406,000, exclusive of capital raising fees, relating to the acquisition of 4DS.
3. The issue of convertible notes post June 2015 by 4DS to raise \$492,291.
4. The issue of 385,603,642 Fitzroy Ordinary Shares at a deemed issue price of \$0.05 (the last closing price on the ASX prior to the transaction being announced) under the Offer and the Private Treaty Offers.
5. The issue of 67,604,019 Fitzroy Class 1 Performance Shares at a deemed issue price of \$0.05 per share and valued at a total of \$3,380,201.
6. The grant of 36,458,333 unlisted options exercisable at \$0.02 each on or before 30 June 2020 and valued at a total of \$1,323,219, to Dr Guido Arnout under a Private Option Offer.
7. The grant of 30,000,000 unlisted options exercisable at \$0.05 each on or before 30 June 2020 and valued at a total of \$769,800, to the corporate adviser to the Prospectus Offer.
8. The adoption of reverse acquisition accounting in accordance with the Accounting Standards which results in the legal parent (in this case Fitzroy) being accounted for as the subsidiary, whilst the legal acquiree (in this case 4DS) being accounted for as the parent. The excess value of the deemed consideration paid over the net tangible assets of Fitzroy Resources Limited of \$6,521,607 has been expensed to the statement of profit and loss and other comprehensive income.

6.10 Outlook for the Merged Entity

This Bidder's Statement does not include any financial forecasts or projections for revenue or profit in relation to Fitzroy, 4DS or the Merged Entity, because there are significant uncertainties associated with forecasting future revenues and expenses of Fitzroy, 4DS and the Merged Entity. In light of these matters Fitzroy's performance in any future period cannot be reliably estimated. On this basis and after considering ASIC Regulatory Guide 170, the Directors believe that reliable financial forecasts for the Merged Entity cannot be prepared and accordingly have not included financial forecasts in this Bidder's Statement.

7. Intentions of Fitzroy

7.1 Disclosure regarding forward-looking statements

This Bidder's Statement includes forward-looking statements that have been based on Fitzroy's current expectations and predictions about future events including Fitzroy's intentions (which include those set out in this Section 7). These forward-looking statements are, however, subject to inherent risks, uncertainties and assumptions that could cause actual results, performance or achievements of Fitzroy, 4DS and the Merged Entity to differ materially from the expectations and predictions, expressed or implied, in such forward-looking statements. These factors include, among other things, those risks identified in this Bidder's Statement.

None of Fitzroy, its officers, nor persons named in this Bidder's Statement with their consent or any person involved in the preparation of this Bidder's Statement makes any representation or warranty (express or implied) as to the accuracy or likelihood of any forward looking statements. You are cautioned not to place reliance on these statements in the event that the outcome is not achieved. These statements reflect views and opinions as at the date of this Bidder's Statement.

7.2 Fitzroy's intentions regarding 4DS

(a) Overview

Subject to the below, it is the present intention of Fitzroy, on the basis of the information concerning 4DS which is known to Fitzroy and the existing circumstances affecting the business of 4DS, that:

- (i) the business of 4DS will otherwise be continued in substantially the same manner as it is presently being conducted;
- (ii) no other major changes will be made to the business of 4DS;
- (iii) there will not be any redeployment of the fixed assets of 4DS; and
- (iv) the present employees of 4DS will otherwise continue to be employed by 4DS.

The current intentions of Fitzroy may change in light of material facts and circumstances at the relevant time.

(b) Approach

Sections 7.2, 7.3, 7.4 and 7.5 set out the intentions of Fitzroy on the basis of facts and information concerning 4DS which are known to Fitzroy at the time of preparation of this Bidder's Statement. However, Fitzroy will only reach final decisions in light of material facts and circumstances at the relevant time. Accordingly, the statements set out in Sections 7.2, 7.3, 7.4 and 7.5 are statements of current intentions only which may vary as new information becomes available or circumstances change.

7.3 Intentions upon acquisition of 90% or more of 4DS

This Section 7.3 describes Fitzroy's intentions if Fitzroy acquires a Relevant Interest in 90% or more of 4DS Shares under the Offer, and so becomes entitled to proceed to compulsory acquisition of outstanding 4DS Shares in accordance with Part 6A.1 of the Corporations Act.

Fitzroy reserves its right, with 4DS's consent (if required), to declare the Offers free from the Minimum Acceptance Condition (or any other Condition).

(a) Development of 4DS's ReRAM technology

Fitzroy intends to use funds of the Merged Entity of approximately \$3,361,588 (see the unaudited Pro Forma Statement of Financial Position in Section 6.8 for further details) to progress research and development activities, including those pursuant to the agreed scope of work under the Joint Development Agreement and for general working capital. Fitzroy believes it has sufficient working capital to carry out these objectives in the short to medium term.

(b) Composition of the Board

In the event that the Offer is successful, Fitzroy will review the 4DS Board. At that time, Fitzroy may take steps to reconstitute the 4DS Board to mirror the reconstituted Fitzroy Board (see below).

The proposed Fitzroy Board structure of the Merged Entity is as follows:

Mr James Dorrian (Chairman)

Mr Dorrian is the current Chairman of 4DS. He is a former partner at Crosspoint Venture Partners a Silicon Valley based early stage venture capital firm. He has served as both CEO and Board Member of several Silicon Valley companies and has in depth experience in M&A and IPOs. Prior to this, Mr Dorrian was the Founder and CEO of Arbor Software and has held management roles with a number of multinational IT companies. He is a founding member of the OLAP standards council, an industry consortium for On-Line Analytical Processing. Mr Dorrian received a Bachelors of Arts from Indiana University in Economics and Communications.

Dr Guido Arnout (Managing Director)

Dr Arnout is the CEO of 4DS and has helped guide multiple Silicon Valley companies through commercialisation or sale. He was the founding President & CEO of PowerEscape, which introduced the first tools for the development of low-power software executing on multi-core devices. He was also founding President & CEO of CoWare, which pioneered system-level design tools for hardware-software co-design and the time-based licensing business model. Dr Arnout co-founded the Open SystemC Initiative (OSCI), an industry consortium to standardize a language for system level design, and as its President submitted the SystemC language to IEEE. He served as VP of Engineering and later senior VP of marketing of CrossCheck Technology. He co-founded and later became VP of Engineering of Silvar-Lisco, the first commercial EDA (electronic design automation) company. Dr Arnout received his PhD in electrical engineering from the University of Leuven in Belgium.

Mr David McAuliffe (Non-Executive Director)

Mr McAuliffe is a current director of 4DS. He is an experienced board director and entrepreneur who has had over twenty years' experience, mostly in the international biotechnology field. During that time he was involved in numerous capital raisings and in-licensing of technologies. He is a founder of several companies in Australia, France and the United Kingdom, many of which have become public companies. Mr McAuliffe has an Honours degree in Law, a Bachelor of Pharmacy degree and is the President of the Dyslexia – Speld Foundation WA (Inc).

Mr Howard Digby (Non-Executive Director)

Mr Digby started his career at IBM and has spent over 25 years managing technology related businesses across the Asia Pacific region, including 12 years being based in Hong Kong. Before returning to Perth, he was with The Economist Group as regional managing director. Prior to this he held senior management roles at Adobe and Gartner where his clients included major semiconductor players including Samsung, Hynix and TSMC. Mr Digby is a Non-Executive Director of Sun Biomedical (ASX: SBN) and Estrella Resources (ASX: ESR) and is currently an advisor to geospatial imagery company Spookfish (ASX: SFI). Mr Digby has a Bachelor of Engineering (Mech, Hons) from The University of Western Australia.

(c) Corporate Matters

Fitzroy intends to:

- (i) proceed with the compulsory acquisition of any 4DS Securities not acquired under the Offers in accordance with Part 6A.1 of the Corporations Act;
- (ii) amend the constitution of 4DS to reflect its status as a wholly owned subsidiary of Fitzroy; and
- (iii) enter into Private Treaty Offer arrangements with the holders of 4DS Non-voting Securities.

(d) Corporate Office and Employees

Fitzroy intends to continue to conduct the 4DS business in the ordinary course. Fitzroy will, however, consider centralising the corporate head office of 4DS by incorporating those functions performed by it into the administrative structure of Fitzroy. It is proposed that functions such as company secretarial, financial management and accounting will be centralised. It is intended that the centralised corporate office will be in Perth, Australia. The Merged Entity's principal operating location will remain at 4DS's current Silicon Valley office in Fremont, California in the United States of America.

Fitzroy does not currently intend to terminate or alter any employment arrangements with the existing 4DS personnel.

Following completion of the Takeover Bids it is Fitzroy's intention to put in place an appropriate employee incentive scheme. Due to 4DS having US employees, Fitzroy will seek to include the use of restricted stock units in such an employee incentive scheme.

Fitzroy proposes to enter into a new executive services agreement with Dr Guido Arnout, to be effective from completion of the Offers. Mr Michael van Buskirk's existing employment agreement with 4DS, Inc. will continue to apply following completion of the Offers. The key terms of these agreements are summarised as follows.

(a) Dr Guido Arnout (Managing Director)

Dr Arnout will receive an annual salary of US\$185,000, and be entitled to be reimbursed for all reasonable expenses incurred in the performance of his duties. He will participate in the employee incentive scheme that the Company intends to put in place following completion of the Offers. The Company will seek to include the use of Restricted Stock Units in such a scheme, given their suitability for US employees. Termination under the agreement will be by way of three months' notice by either party, and the agreement will contain customary provisions regarding confidentiality, and Company ownership of intellectual property.

(b) Mr Michael Van Buskirk (Chief Engineering Officer)

Mr Van Buskirk will receive an annual salary of US\$240,000, and be entitled to be reimbursed for all reasonable expenses incurred in the performance of his duties. He will participate in the employee incentive scheme that the Company intends to put in place following completion of the Offers. The Company will seek to include the use of Restricted Stock Units in such a scheme, given their suitability for US employees. Termination under the agreement will be by way of three months' notice by either party, and the agreement will contain customary provisions regarding confidentiality, and Company ownership of intellectual property.

7.4 Intentions upon gaining control but less than 90% of 4DS

This Section 7.4 describes Fitzroy's intentions if 4DS becomes a controlled entity of Fitzroy, but Fitzroy is not entitled to proceed to compulsory acquisition in accordance with Part 6A.1 of the Corporations Act.

The Offer is conditional upon Fitzroy acquiring a Relevant Interest in at least 90% of the 4DS Shares on issue. If Fitzroy waives that condition, it may, as a result of its Offer, acquire less than 90% of 4DS. Under the Bid Implementation Agreement Fitzroy has agreed that it will only waive that condition (amongst others) with the prior written consent of 4DS (such consent not to be unreasonably withheld or delayed).

Fitzroy reserves its right to declare the Offer, with 4DS's consent (if required), free from the Minimum Acceptance Condition (or any other Condition) to the Offer.

On completion of the Offer, Fitzroy may hold a sufficient number of 4DS Shares to exercise control over the management and operations of 4DS, but may not be entitled to compulsorily acquire all outstanding 4DS Shares. Fitzroy's intentions in those circumstances are as follows:

(a) General

Fitzroy will implement the intentions described in Section 7.3 above to the extent possible and economically feasible and subject to the requirements of the Corporations Act and any other applicable

laws or regulations. These intentions specifically include those in respect of strategic review, corporate matters, corporate office and employees and general business integration.

Fitzroy intends to, to the extent possible, implement the intentions detailed in in Sections 7.3 of this Bidder's Statement where they are consistent with 4DS being a controlled entity of (but not wholly owned by) Fitzroy and are considered to be in the best interests of 4DS Shareholders as a whole, including the rights of minority shareholders.

(b) 4DS Technology Development Expenditure

Fitzroy intends, to the extent possible, to implement the current budgeted expenditure program in relation to research and development activities, including those pursuant to the agreed scope of work under the Joint Development Agreement.

(c) Composition of the Board

In the event that Fitzroy gains control of 4DS, Fitzroy will review the 4DS Board. At that time, Fitzroy may take steps to reconstitute the 4DS Board to mirror the reconstituted Fitzroy Board (see below).

Through the 4DS Board, Fitzroy intends to, to the extent possible, implement the intentions detailed in Section 7.3 and this Section where they are consistent with 4DS being a controlled entity of (but not wholly owned by) Fitzroy and are considered to be in the best interests of 4DS Shareholders as a whole, including the rights of minority shareholders

(d) Elimination of Duplication

To the extent that activities and functions, including management, presently carried out by Fitzroy and 4DS will be duplicated, such duplication will be eliminated where it is economically efficient to do so.

(e) Remaining 4DS Shareholders

If Fitzroy acquires less than 90% of the 4DS Shares on issue, then 4DS Shareholders should be aware that if they do not accept the Offer they may become a "locked-in" minority after the end of the offer period for the Offer (i.e. if Fitzroy holds a majority of 4DS Shares but is not entitled to compulsorily acquire the remaining 4DS Shares).

It is possible that, even if Fitzroy is not entitled to proceed to compulsory acquisition of minority holdings after the end of the Offer Period under Part 6A.1 of the Corporations Act, it may subsequently become entitled to exercise rights of general compulsory acquisition under Part 6D.2 of the Corporations Act (for example, as a result of acquisitions of 4DS Shares in reliance on the '3% creep' exception in item 9 of Section 611 of the Corporations Act). If so, it intends to exercise those rights.

(f) Dividends and Funding

4DS does not currently pay dividends. The payment of dividends by 4DS is at the discretion of the 4DS Board, the majority of which will comprise Fitzroy's nominees. Fitzroy has not formed an intention about retaining or varying the current dividend policy of 4DS (through its nominees on the board of 4DS), and will do so following completion of the Offers.

(g) Limitations in Giving Effect to Intentions

There may be limitations to Fitzroy's intentions as outlined in this Section 7.4 due to the legal obligations of 4DS's directors to have regard to the best interests of 4DS and its shareholders, including the rights of minority shareholders, and the requirements of the Corporations Act and other applicable laws, and ASX Listing Rules relating to transactions between related parties. Fitzroy may require legal and financial advice before deciding what action to take in connection with the intentions outlined in this Section 7.4.

The extent to which Fitzroy will be able to implement these intentions will be subject to:

- (i) the Corporations Act and the ASX Listing Rules, in particular in relation to related party transactions and conflicts of interests;
- (ii) the legal obligation of the directors of 4DS to act for proper purposes and in the best interests of 4DS Shareholders as a whole; and

- (iii) the level of control that Fitzroy will eventually be able to exert over the operations and strategy of 4DS.

7.5 Intentions if Fitzroy does not acquire effective control of 4DS

Fitzroy reserves its right to declare, with 4DS's consent (if required), the Offer free from the Minimum Acceptance Condition (or any other Condition) to the Offer.

This Section sets out Fitzroy's intentions if it were to declare the Offer free of the Conditions and the Offer closes and Fitzroy does not gain effective control of 4DS. In that circumstance:

- (a) Fitzroy does not expect to be in a position to give effect to the intentions set out in Sections 7.3 or 7.4 of this Bidder's Statement; and
- (b) Fitzroy would have regard to the circumstances at the time and consider the appropriate courses of action that are in the best interests of Fitzroy Shareholders. Such courses of action might include, but not be limited to, disposing of its shareholding in 4DS, acquiring further 4DS Shares as permitted by law, seeking representation on the 4DS Board and exercising its voting rights as a major shareholder as it deems fit.

8. Australian Tax Considerations

8.1 Introduction

The following summary is a general description of the Australian income tax and CGT consequences for 4DS Shareholders who accept the Offers and dispose of their 4DS Shares to Fitzroy in accordance with the Offers.

The summary is based on taxation law and practice in effect at the date of the Offers. It is not intended to be an authoritative or comprehensive analysis of the taxation laws of Australia, nor does it consider any specific facts or circumstances that may apply to particular shareholders. Further, it does not deal with the taxation consequences of disposing of 4DS Shares or other securities which may have been issued under an employee share scheme, which may be subject to specific tax provisions.

The Australian tax consequences for 4DS Shareholders of disposing of their 4DS Shares will depend on a number of factors including:

- (a) whether they are an Australian resident or non-resident for tax purposes;
- (b) whether they hold their 4DS Shares on capital, revenue account or as trading stock;
- (c) when they acquired their 4DS Shares;
- (d) whether they are an individual, a company or a trustee of a complying superannuation entity; and
- (e) whether scrip for scrip rollover relief is available – see Section 8.3 below.

Given the complexity of the taxation legislation, 4DS Shareholders should seek independent taxation advice regarding the tax consequences of disposing of 4DS Shares given the particular circumstances which apply to them.

8.2 Taxation consequences for 4DS Shareholders

- (a) Shareholders holding 4DS Shares as trading stock

4DS Shareholders who hold their 4DS Shares as trading stock (e.g., as a share trader) will be required to include the value of the consideration from the disposal of their 4DS Shares in their assessable income.

- (b) Shareholders holding 4DS Shares on Revenue Account

The Australian tax consequences for 4DS Shareholders who hold their 4DS Shares on revenue account and who accept the Offers will be able to include the amount received (the market value of the Offer Consideration) over the cost of acquisition of the 4DS Shares as ordinary assessable income. Where the market value of the Offer Consideration is less than the cost of 4DS Shares the loss may be claimed as a tax deduction.

- (c) Non-resident shareholders holding 4DS Shares as trading stock or on revenue account

4DS Shareholders who are a non-resident of Australia and whose 4DS Shares were acquired as trading stock or otherwise on revenue account, should seek their own professional advice. The Australian tax treatment will depend on the source of any gain or loss and whether a double tax agreement exists between their country of residence and Australia to either limit the amount taxable in Australia or provide a tax credit for tax paid.

- (d) Non-resident 4DS Shareholders holding 4DS Shares on Capital Account

The Australian tax treatment will depend on whether the shares are taxable Australian property (**TAP**). Where the shares are TAP, any gain derived on the sale of the shares may be subject to capital gains tax. Whether the non-resident shareholder will be able to access the CGT discount (to reduce any part of the taxable gain) will depend on:

- (i) the type of shareholder they are;
- (ii) how long they have held the shares for; and

- (iii) when the shares were acquired. Non-resident shareholders are unable to apply the CGT discount to reduce capital gains derived after 8 May 2012. However, the CGT discount may still apply to the portion of the capital gain accrued up to 8 May 2012 using the 'default' approach or 'market value' approach.

Where the shares are not TAP, it is unlikely that any capital gain will be subject to tax in Australia. As these rules are complex in their application, we recommend non-resident shareholders seek independent advice in order to determine if any gain would be taxable to them in Australia.

(e) Australian resident 4DS Shareholders holding 4DS Shares on Capital Account

In broad terms, the Australian tax consequences for Australian resident 4DS Shareholders who hold their 4DS Shares on capital account and who accept the Offers will depend on whether or not 'scrip for scrip' capital gains tax rollover relief is available and, if available, is elected. The following discussion considers the general Australian tax consequences for Australian resident 4DS Shareholders where:

- (i) rollover relief is not available or is not elected; and
- (ii) rollover relief is available and is elected.

8.3 Acceptance of the Offers where rollover relief is available and is elected

Australian-resident 4DS Shareholders may be entitled to 'scrip for scrip' CGT rollover relief in respect of the consideration referable to Fitzroy Shares where the exchange of the shares would otherwise realise an assessable capital gain. Broadly speaking, rollover relief is available to shareholders who exchange shares in one company for shares in another company where the transaction is made pursuant to a takeover bid and provided certain qualifying conditions are satisfied.

In broad terms, these qualifying conditions include the requirement that Fitzroy must make an offer to all shareholders in 4DS to acquire their voting shares on substantially the same terms and Fitzroy must become the owner of at least 80% of the voting shares in 4DS as a consequence of the Offers.

If the qualifying conditions are satisfied and a 4DS Shareholder elects for rollover relief to apply, the rollover relief is available.

The effect of the rollover relief is that the 4DS Shareholder's total capital gain will be deferred until the Fitzroy Shares are disposed of.

The CGT cost base of the new Fitzroy Shares acquired in the exchange is determined by reasonably attributing to it the CGT cost base of the 4DS Shares for which a rollover was obtained. For example, the CGT cost base for one 4DS Share will be apportioned to the Fitzroy Shares received for each 4DS Share. Further, the 4DS Shareholders will be taken to acquire their Fitzroy Shares at the time they originally acquired their 4DS Shares (for the purpose of determining any entitlement to a discount on an otherwise assessable capital gain in relation to a subsequent dealing in their new Fitzroy Shares).

As discussed above, rollover relief will only be available if the qualifying conditions are satisfied and 4DS Shareholders elect to apply for it. Further, rollover relief is not available if 4DS Shareholders realise a capital loss on the disposal of their 4DS Shares.

Scrip for scrip rollover relief does not apply automatically and must be elected. The election to utilise scrip for scrip rollover relief is evidenced by the manner in which the tax return for the relevant income year is prepared although it may be prudent to keep a written record of that election with your tax records.

Given the complexity of the provisions governing rollover relief and the various qualifying conditions that need to be satisfied, 4DS Shareholders should seek independent taxation advice regarding their particular circumstances.

Non-resident 4DS Shareholders could only obtain rollover relief in very limited circumstances. It is imperative that non-residents seek independent tax advice to confirm their Australian tax position.

8.4 Acceptance of the Offers where rollover relief is not available or is not elected

Acceptance of an Offer is likely to involve a disposal by a 4DS Shareholder of their 4DS Shares for CGT purposes.

An Australian-resident 4DS Shareholder may make a capital gain or capital loss, depending on whether their capital proceeds from the exchange are more than the cost base of their 4DS Shares, or whether those capital proceeds are less than the cost base of those shares.

4DS Shareholders who are not resident in Australia for tax purposes will generally be subject to Australian CGT on the disposal of 4DS Shares if:

- (a) together with their Associates, they directly or indirectly own at least 10% or more (by value) of the shares in 4DS:
 - (i) at the time of the sale; or
 - (ii) throughout a 12 month period beginning no earlier than 24 months before the time of the sale and ending no later than the time of the sale; and
- (b) if more than 50% of the value of 4DS's assets is attributable to Australian real property,

subject to the terms of any applicable double tax agreement. It is imperative that non-residents independently confirm their Australian tax position.

The capital proceeds that a 4DS Shareholder will be taken to have received in respect of the disposal of their 4DS Shares will generally be the market value of Fitzroy Shares on the date of implementation of the Offers.

The cost base of 4DS Shares will generally be the cost at which they were acquired including any incidental costs of acquisition.

Where the amount of capital proceeds received by a 4DS Shareholder in respect of the disposal of their 4DS Shares is greater than the cost base of those 4DS Shares, then the shareholder should realise a capital gain for Australian CGT purposes.

Where the amount of capital proceeds received by a 4DS Shareholder in respect of the disposal of their 4DS Shares is less than the reduced cost base of those 4DS Shares, then the 4DS Shareholder should realise a capital loss for Australian CGT purposes. Where it is expected that a capital gain will result, if a 4DS Shareholder does not elect for rollover relief, or that relief is not available, then partial tax relief may be available in the form of the CGT discount.

Specifically, where 4DS Shares have been held for at least 12 months before their disposal, a shareholder who is an individual, a complying superannuation entity, or the trustee of a trust, should be able to reduce the capital gain arising from the disposal of 4DS Shares by the CGT discount (see below).

The CGT discount will be available if the relevant 4DS Shares have been held for at least 12 months.

Subject to the 4DS Shareholder having any capital losses or net capital losses from previous income years, where the CGT discount is available, eligible 4DS Shareholders which are individuals or trustees of trusts will reduce the capital gain arising on the disposal of 4DS Shares by one-half. For individuals, this reduced gain should be assessed at the shareholder's marginal tax rate. Trustees should seek specific advice regarding the tax consequences of distributions attributable to discounted capital gains.

Subject to the 4DS Shareholder having any capital losses or net capital losses from previous income years, where 4DS Shares are held by a complying superannuation entity and the CGT discount is available, the discount will reduce the nominal capital gain on the disposal of the shares by one-third.

The CGT discount is generally applied after taking into account any capital losses or net capital losses from previous income years. 4DS Shareholders having any capital losses or net capital losses from previous income years should seek independent advice in relation to the potential availability of the CGT discount.

8.5 4DS Shareholders who are companies will not be entitled to the CGT Discount

Companies are not entitled to the CGT discount. The capital gain or capital loss will be calculated with reference to the capital proceeds less the cost base or reduced cost base of the shares. Where a company realises a capital

gain, it may be eligible to reduce that gain with capital losses from previous income years. We recommend that companies seek advice from their professional tax adviser in relation to the availability and deductibility of capital losses.

8.6 GST

GST should not apply to the disposal of 4DS Shares under the Offers, the issue of Fitzroy Shares under the Offers, or any subsequent disposal of Fitzroy Shares.

4DS Shareholders who are registered for GST purposes may not be entitled to full input tax credits for any GST incurred on costs associated with acquiring or disposing of securities in Fitzroy or 4DS. 4DS Shareholders should seek their own tax advice in this respect.

9. Risk Factors

9.1 Overview

If the Offers become Unconditional, 4DS Shareholders who accept the Offer will become Fitzroy Shareholders. In those circumstances, 4DS Shareholders will:

- (a) continue to be exposed to the risks associated to the investment in 4DS as a result of their indirect interest in 4DS through Fitzroy;
- (b) be exposed to the risks which are specific to an investment in Fitzroy; and
- (c) be exposed to additional risks relating to the Offer and the Merged Entity.

These risks are explained below. 4DS Shareholders should read the Bidder's Statement carefully and consult their professional advisers before deciding whether to accept the Offers. By accepting the Offers, 4DS Shareholders will be investing in Fitzroy.

The business activities of Fitzroy are subject to various risks that may impact on the future performance of Fitzroy. Some of these risks can be mitigated by the use of safeguards and appropriate systems and controls, but some are outside the control of Fitzroy and cannot be mitigated.

Accordingly, an investment in Fitzroy carries no guarantee with respect to the payment of dividends, return of capital or price at which shares will trade and should be considered speculative. The principal risk factors include, but are not limited to, the following.

9.2 Risks relating to the Offer

- (a) Issue of Fitzroy Shares as consideration

4DS Shareholders are being offered specific quantities of Fitzroy Shares as consideration under the Offer. As a result, the value of the consideration will fluctuate depending upon the market value of Fitzroy Shares at any given time. Accordingly, the market value of the Fitzroy Shares at the time you receive them may vary significantly from their market value on the date of your acceptance of the Offer.

- (b) Rollover Relief

If Fitzroy does not acquire a Relevant Interest in at least 80% of 4DS Shares, scrip-for-scrip CGT rollover relief will not be available to 4DS Shareholders.

- (c) Sale of Fitzroy Ordinary Shares

Under the Offers, Fitzroy will issue a significant number of new Fitzroy Ordinary Shares. Some holders of 4DS Shares may not intend to continue to hold their Fitzroy Ordinary Shares and may wish to sell them (subject to any applicable escrow period). There is a risk that this may adversely impact on the price of and demand for Fitzroy Ordinary Shares.

- (d) Acquisition of Less than 90% of 4DS Shares

It is possible that Fitzroy could acquire a Relevant Interest of less than 90% of 4DS Shares on issue under the Offers. The existence of a minority interest in 4DS may have an impact on the operations of the Merged Entity, although this impact will depend upon the ultimate level of 4DS ownership acquired by Fitzroy.

- (e) Merger Integration

If Fitzroy acquires a substantial interest in 4DS pursuant to the Offers, integrating Fitzroy and 4DS may create some risks, including the integration of management, information systems and work practices. Furthermore, there is no guarantee that any synergy benefits or costs savings will be achieved on time or at all.

(f) Forward Looking Information

Certain information in this Bidder's Statement constitutes forward looking information that is subject to risks and uncertainties and a number of assumptions, which may cause the actual expenditure of the Merged Entity to be different from the expectations expressed or implied in this Bidder's Statement

(g) 4DS Information

In preparing the information relating to 4DS contained in this Bidder's Statement, Fitzroy has relied on publicly available information relating to 4DS and information provided by 4DS management. Risks may exist in relation to 4DS (which will affect the Merged Entity) of which Fitzroy is unaware. If any material risks are known to the directors of 4DS, they must be disclosed in the target's statement to be issued by 4DS.

9.3 Risks Relating to the Merged Entity

(a) This Section 9.3 sets out risks that are specific to Fitzroy and 4DS as the Merged Entity. This Section 9.3 also sets out general and industry risks relating to Fitzroy and 4DS as the Merged Entity.

(b) Specific risks relating to Fitzroy and 4DS as the Merged Entity

(i) Existing Technology Risks

Current semiconductor memory technologies of DRAM, NAND Flash, and NOR Flash face technological barriers to continue to meet long-term customer needs. These barriers include potential limitations on the ability to shrink products in order to reduce costs, meet higher density requirements, and improve power consumption and reliability. Notwithstanding these challenges, existing semiconductor memory technologies may be able to overcome these barriers and remain the dominant technology.

(ii) Development risk

The success of 4DS relies almost entirely on the successful development of 4DS's ReRAM technology, which is in an advanced stage of development. Should the testing and verification of 4DS's technology not be completed to the satisfaction of the procedures specified by the Company, then 4DS will have to expend additional time and resources to rectify any outstanding issues which will delay the development of the next stage of development or at the very worst, if unassailable barriers are encountered, abandon the project entirely.

(iii) Commercialisation risk

Risks will also be involved in the ability to translate the developed technology in to a solution that provides a meaningful improvement in all of the relevant metrics for memory storage in a cost effective manner to support the price needed to make an impact in the marketplace. The main factors that may introduce risk include but are not limited to:

- the ability to further improve the functionality of its core resistive memory material;
- the ability to scale the memory cells further;
- the ability to maintain lot-to-lot consistency at high endurance and high yield; and
- the ability to manage sneak path issues and other related access and selection mechanisms when completing a full memory configuration.

There can be no assurance that 4DS will:

- be successful in developing a competitive new semiconductor memory technology;
- be able to cost-effectively manufacture new products;
- be able to successfully market its technology; and

- generate licence fees or other forms of income from its technology that will allow 4DS or the Company to recover the costs of development efforts.

(iv) Market adoption

4DS's ReRAM technology is a new technology, which is designed to replace existing technologies that have a large amount of market acceptance. Following completion of the Acquisition and the Capital Raising, the Company and 4DS will continue to focus efforts on development and commercialisation of 4DS's technology. 4DS does not currently have any contracts in place to become revenue generating, there are no guarantees of success in commercialising the 4DS technology. Following development of its technology, the success of the commercialisation of 4DS will in part relate to the acceptance of its technology for routine use within the semiconductor memory industry. Take up of the technology will involve education of market participants and marketing programmes to raise the profile of 4DS and its technology.

(v) Competition and new technologies

The industry in which 4DS operates is competitive and includes companies with significantly greater financial, technical, human, research and development, and marketing resources than currently available to 4DS. Numerous entities around the world may resist 4DS's efforts to commercialise or market products that may compete with their own offerings. 4DS's competitors may develop new memory technologies: in advance of 4DS; that are more effective than those developed by 4DS; or have greater market acceptance. As a consequence, 4DS's technology may become obsolete or uncompetitive, resulting in adverse effects on revenue, margins and profitability.

(vi) Joint Development Agreement – termination

4DS has entered into a joint development agreement with HGST, providing 4DS with resources which may expedite the development, and potential commercialisation, of 4DS's technology. This JDA is subject to various risks, including:

- HGST deciding unilaterally to terminate the JDA without cause (which it has the right to do on the giving of 30 days' written notice to 4DS); and
- 4DS's interests diverging from HGST's such that the parties may not be able to agree on ongoing development activities, or on the amount, timing, or nature of further investments in the joint development of the technology.

If 4DS loses access to HGST's resources, there can be no guarantee that 4DS will be able to find a replacement strategic partner with similar resources. Accordingly, a loss of access to HGST's resources could result in significant delays to or suspension of 4DS's development strategy and could have a material adverse effect on 4DS's activities and on the Company generally.

(vii) Intellectual Property

There can be no assurance that 4DS's patent portfolio will afford 4DS or the Company commercially significant protection of 4DS's technology, or that competitors will not develop competing technologies that circumvents such intellectual property. Although the Company will implement all reasonable endeavours to protect 4DS's intellectual property, there can be no assurance that these measures will be sufficient.

(viii) Infringement of third party intellectual property rights

If a third party accuses 4DS of infringing its intellectual property rights or if a third party commences litigation against 4DS for the infringement of patent or other intellectual property rights, 4DS may incur significant costs in defending such action, whether or not it ultimately prevails. Typically, patent litigation is expensive. Costs that 4DS incurs in defending third party infringement actions would also include diversion of management's and technical personnel's time.

In addition, parties making claims against 4DS may be able to obtain injunctive or other equitable relief that could prevent 4DS from further developing discoveries or commercialising its technology. In the event of a successful claim of infringement against 4DS, it may be required to pay damages and obtain one or more licenses from the prevailing third party. If it is not able to obtain these licenses at a reasonable cost, if at all, it could encounter delays in technology development and loss of substantial resources while it attempts to develop alternatives. Defence of any lawsuit or failure to obtain any of these licenses could prevent 4DS from commercialising its technology and could cause it to incur substantial expenditure.

(ix) Reliance on Key Personnel

The responsibility of overseeing the day-to-day operations and the strategic management of 4DS and the Company depends substantially on senior management and key personnel, including 4DS's current management. There can be no assurance given that there will be no detrimental impact on the Company if one or more of these parties cease their employment. Further, there is no guarantee that 4DS will be able to attract and retain suitable qualified personnel, and a failure to do so could materially adversely affect the business, operating results and financial prospects of 4DS and the Company.

(x) Limited trading history

4DS is essentially a start-up company with limited trading history. 4DS has to date principally developed its technology as well as seeking patent protection. However, 4DS is still developing and testing its technology and has yet to commence the commercialisation phase of the business cycle and as such carries the normal risks of a start-up business. Given the limited trading history of 4DS, no assurance can be given that 4DS will achieve commercial viability through the implementation of its development plan.

(xi) Sufficiency of funding

4DS's growth through technology development and commercialisation activities will require substantial expenditure and may not result in profitability being achieved. There can be no guarantees that 4DS's cash reserves together with the funds raised by the Capital Raising will be sufficient to successfully achieve all the objectives of 4DS's overall development strategy.

If the Company is unable to use debt or equity to fund expansion after the substantial exhaustion of the net proceeds of the Capital Raising and existing working capital, there can be no assurance that 4DS will have sufficient capital resources for that purpose, or other purposes, or that it will be able to obtain additional resources on terms acceptable to the Company or at all.

Any additional equity financing may be dilutive to the Company's existing Shareholders and any debt financing, if available, may involve restrictive covenants, which limit the Company's and 4DS's operations and business strategy. The Company's failure to raise capital if and when needed could delay or suspend 4DS's development strategy and could have a material adverse effect on 4DS's activities and on the Company generally.

(xii) Foreign exchange risks

4DS's main operations are carried on in the United States. Further, 4DS is potentially a global business and will likely have commercial opportunities outside of Australia in general to generate revenue. Any revenue in foreign currencies will be converted to AUD for reporting purposes will be affected by currency fluctuations, which may adversely impact on the Company's financial performance and position.

(c) General and industry risks relating to Fitzroy and 4DS as the Merged Entity

(i) Potential Acquisitions

As part of its business strategy, the Company may make acquisitions of, or significant investments in, complementary companies or assets. Any such transactions will be accompanied by risks commonly encountered in making such acquisitions.

(ii) Market Conditions

Share market conditions may affect the value of the Company's quoted securities regardless of the Company's operating performance. Share market conditions are affected by many factors such as:

- general economic outlook;
- interest rates and inflation rates;
- currency fluctuations;
- changes in investor sentiment toward particular market sectors;
- the demand for, and supply of, capital; and
- terrorism or other hostilities.

The market price of securities can fall as well as rise and may be subject to varied and unpredictable influences on the market for equities in general and technology stocks in particular. Neither the Company nor the Directors warrant the future performance of the Company or any return on an investment in the Company.

(iii) Economic and government risks

The future viability of the Company is also dependent on a number of other factors affecting performance of all industries and not just the technology industry including, but not limited to, the following:

- general economic conditions in jurisdictions in which the Company operates;
- changes in government policies, taxation and other laws in jurisdictions in which the Company operates;
- the strength of the equity and share markets in Australia and throughout the world, and in particular investor sentiment towards the technology sector;
- movement in, or outlook on, interest rates and inflation rates in jurisdictions in which the Company operates; and
- natural disasters, social upheaval or war in jurisdictions in which the Company operates.

(iv) Insurance

The Company will, where possible and economically practicable, endeavour to mitigate some risks by procuring relevant insurance cover. However, such insurance cover may not always be available or economically justifiable and the policy provisions and exclusions may render a particular claim by the Company outside the scope of the insurance cover.

While the Company will undertake all reasonable due diligence in assessing the creditworthiness of its insurance providers, there will remain the risk that an insurer defaults in payment of a legitimate claim by the Company under an insurance policy.

(v) Regulatory Risk

The introduction of new legislation or amendments to existing legislation by governments, developments in existing common law, or the respective interpretation of the legal requirements in any of the legal jurisdictions which govern the Company's or 4DS's operations or contractual obligations, could impact adversely on the assets, operations and, ultimately, the financial performance of the Company and its Shares. In addition there is a commercial risk that legal action may be taken against the Company or 4DS in relation to commercial matters.

(vi) Litigation

4DS is exposed to the risk of actual or threatened litigation or legal disputes in the form of intellectual property claims, customer claims, personal injury claims, employee claims and other litigation and disputes. If any claim was successfully pursued it may adversely impact the financial performance, financial position, cash flow and share price of the Company.

(vii) Growth

There is a risk that the Company may be unable to manage its future growth successfully. The ability to hire and retain skilled personnel and third party personnel may also be a significant obstacle to growth.

(viii) Investment Highly Speculative

The above list of risk factors ought not to be taken as exhaustive of the risks faced by the Company or by investors in the Company. The above factors, and others not specifically referred to above may, in the future, materially affect the financial performance of the Company and the value of the Company's securities. Therefore, the Shares carry no guarantee with respect to the payment of dividends, returns of capital or the market value of the Shares.

10. Additional Information

10.1 Bid Implementation Agreement

As announced on 13 August 2015, Fitzroy and 4DS have entered into the Bid Implementation Agreement pursuant to which Fitzroy has agreed to make the Offers. A copy of the Bid Implementation Agreement was released to the ASX on 13 August 2015.

The key terms of the Bid Implementation Agreement are:

- (a) Fitzroy agrees to make the Offers, subject to the Conditions. The agreed consideration is the Offer Consideration.
- (b) The directors of 4DS have advised 4DS that they will:
 - (i) unanimously recommend that 4DS Shareholders accept the Offers in the absence of a Superior Proposal; and
 - (ii) accept or procure the acceptance of the Offers in respect of any 4DS Shares, and Private Treaty Offers in respect of any 4DS Non-voting Securities, they or their associates own or control.
- (c) 4DS must use its best endeavours to procure that there is no 4DS Material Adverse Change or Prescribed Occurrence within its control from the execution date of the Bid Implementation Agreement until the last day of the Offer Period.
- (d) Fitzroy agrees to make Private Treaty Offers to each 4DS Non-voting Securityholder.
- (e) In the absence of a Superior Proposal for 4DS, 4DS will procure that its board of directors will participate in efforts reasonably required by Fitzroy to promote the merits of the Offer including meeting with key shareholders, analysts, management, customers and press but only to the extent that those directors consider that they may do so without breaching any of their statutory or fiduciary duties.
- (f) Each party agrees to use all reasonable endeavours to satisfy the Conditions as soon as practicable after the date of the Bid Implementation Agreement provided that 4DS is not required to comply with this obligation if it would require 4DS to take any action which in the reasonable opinion of the 4DS Board would constitute a breach of the duties of the 4DS directors.
- (g) The Bid Implementation Agreement provides for 4DS to, during the period from the execution date of the Bid Implementation Agreement until the last day of the Offer Period:
 - (i) provide all information relating to 4DS that Fitzroy determines in good faith to be relevant or material and provide electronic copies of its share register as requested by Fitzroy; and
 - (ii) conduct, and procure that its Subsidiaries conduct, their respective businesses in the ordinary course of business and not take any action which causes a breach of any of the agreed bid terms.
- (h) As soon as is reasonably practicable after the Minimum Acceptance Condition is satisfied, Fitzroy will take all actions necessary for Mr James Dorrian, Dr Guido Arnout, Mr David McAuliffe and Mr Howard Digby to be appointed to the Board of Fitzroy with effect from the date of the Offers becoming Unconditional.
- (i) Fitzroy has agreed that it will only waive the Essential Conditions with the prior written consent of 4DS (such consent not to be unreasonably withheld or delayed).
- (j) The Bid Implementation Agreement contains representations and warranties that are customary for an agreement of this nature.

- (k) The Bid Implementation Agreement may be terminated in the following circumstances:
- (i) By either Fitzroy or 4DS if:
- (A) the 4DS Board changes its recommendation in relation to either of the Offers as a result of the Board determining that it has received a Superior Proposal;
 - (B) the other party is in material breach of the Bid Implementation Agreement and to the extent that the breach can be rectified, the breach has not been rectified within 5 Business Days of receiving notice;
 - (C) a representation or warranty given by the other party is or becomes untrue in any material respect and the breach of the representation or warranty if of such a kind that, had it been disclosed to the first party before entry into the BIA, could reasonably have been expected to have resulted in the first party either not entering into the BIA or entering into it on materially different terms;
 - (D) any Court or Regulatory Authority has issued an order, decree or ruling or taken any other action that permanently restrains or prohibits either of the Offers; or
 - (E) Fitzroy withdraws either Offer or either Offer lapses for any reason, including non-satisfaction of a Condition; and
- (ii) By 4DS if before the end of the Offer Period a Fitzroy Material Adverse Change occurs.
- (l) If the Bid Implementation Agreement is terminated, the parties will have no further obligations to each other under the Bid Implementation Agreement (except in relation to specified general provisions) and neither party will have any liability or obligation to the other party for any damages or loss of any kind.

10.2 Fitzroy's interest in 4DS Shares

As announced on 13 August 2015, major 4DS Shareholders holding 19.99% of the voting 4DS Shares have entered into pre-bid acceptance agreements with Fitzroy agreeing to accept the Offers.

As at the date of this Bidder's Statement Fitzroy does not have a Relevant Interest in any other 4DS Shares or 4DS Options.

10.3 Acquisitions of 4DS Shares by Fitzroy and its Associates

(a) Previous 4 months

Neither Fitzroy nor any Associate of Fitzroy has provided, or agreed to provide, consideration for 4DS Shares under any purchase or agreement (other than the Bid Implementation Agreement) during the period beginning 4 months before the date of this Bidder's Statement and ending on the day immediately before the date of this Bidder's Statement.

(b) Period before Offers

Neither Fitzroy nor any Associate of Fitzroy has provided, or agreed to provide, consideration for 4DS Shares under any purchase or agreement (other than the Bid Implementation Agreement) during the period starting on the date of this Bidder's Statement and ending on the date immediately before the date of the Offers.

10.4 No escalation agreements

Neither Fitzroy nor any Associate of Fitzroy has entered into any escalation agreement that is prohibited by Section 622 of the Corporations Act.

10.5 Collateral benefits

(a) Previous 4 months

During the period beginning 4 months before the date of this Bidder's Statement and ending on the day immediately before the date of this Bidder's Statement, neither Fitzroy nor any Associate of Fitzroy

gave, or offered to give or agreed to give, a benefit to another person that was likely to induce the other person, or an Associate of that person, to:

- (i) accept the Offers; or
- (ii) dispose of their 4DS Shares,

and which is not offered to all holders of 4DS Shares under the Offers.

(b) Period before Offer

During the period starting on the date of this Bidder's Statement and ending on the date immediately before the date of the Offer, neither Fitzroy nor any Associate of Fitzroy gave, or offered to give or agreed to give, a benefit to another person that was likely to induce the other person, or an Associate of that person, to:

- (i) accept the Offers; or
- (ii) dispose of their 4DS Shares,

and which is not offered to all holders of 4DS Shares under the Offers.

10.6 4DS Options and 4DS A Class Shares

Should any 4DS Options be exercised after the Record Date and prior to the close of the Offer, then the Offers will extend to any person who becomes registered or entitled to be registered as the holder of 4DS Shares before the close of the Offers.

Fitzroy also intends to make Private Treaty Offers to holders of 4DS Options and 4DS A Class Shares.

It is a Condition of the Offers that all 4DS Option holders accept Private Treaty Offers in respect of their 4DS Options and all 4DS A Class Shareholders accept Private Treaty Offers in respect of their 4DS A Class Shares.

10.7 Disclosure of information

Due to the fact that Fitzroy is offering Fitzroy Shares as consideration for the acquisition of 4DS Shares under the Offer, the Corporations Act requires that this Bidder's Statement must include all information that would be required for a prospectus for an offer of Fitzroy Shares under Sections 710 to 713 of the Corporations Act.

As a company whose shares are quoted on ASX, Fitzroy is subject to regular disclosure requirements. In particular, Fitzroy is required to disclose information concerning its finances, activities and performance. This disclosure is available on Fitzroy's website as well as on the ASX website (ASX Code: FRY).

Please refer to Section 3.8 for further details in relation to Fitzroy's continuous disclosure obligations and the availability of public information in respect of Fitzroy.

10.8 Interests and benefits relating to the Offer

(a) Interests

Other than as set out below or elsewhere in this Bidder's Statement, no:

- (i) director or proposed director of Fitzroy;
- (ii) person named in this Bidder's Statement as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of this Bidder's Statement;
- (iii) promoter of Fitzroy; or
- (iv) broker or underwriter in relation to the issue of Fitzroy Shares pursuant to the Offer or financial services licensee named in this Bidder's Statement as being involved in the issue of Fitzroy Shares,

(together, the **Interested Persons**) has, or had within 2 years before the date of this Bidder's Statement, any interest in:

- (v) the formation or promotion of Fitzroy;
- (vi) any property acquired or proposed to be acquired by Fitzroy in connection with its formation or promotion or in connection with the offer of Fitzroy Shares under the Offer; or
- (vii) the offer of Fitzroy Shares under the Offer.

Proposed directors of Fitzroy, Messrs David McAuliffe and Howard Digby will receive 105,250 and 26,313 4DS A Class Shares (respectively) upon the Offers becoming Unconditional, for services provided to 4DS in connection with the Offer. Fitzroy will acquire these 4DS A Class Shares under Private A Class Share Offers, and Messrs McAuliffe and Digby receiving 10,000,000 and 2,500,048 Fitzroy Ordinary Shares (respectively) in consideration under those Private A Class Share Offers.

Mr Howard Digby will also receive a fee of \$20,000 from Fitzroy for consulting services provided to Fitzroy in relation to the Offer (primarily for technical due diligence on 4DS' technology and the claims associated with the technology and its development progress, including procuring independent technical expert advice and patent attorney services).

(b) **Disclosure of Fees and Benefits Received by Certain Persons**

Other than as set out below or elsewhere in this Bidder's Statement, no amounts have been paid or agreed to be paid and no benefits have been given or agreed to be given:

- (i) to a director or proposed director of Fitzroy to induce them to become, or to qualify as, a director of Fitzroy; or
- (ii) for services provided by an Interested Person in connection with the formation or promotion of Fitzroy or the offer of Fitzroy Shares under the Offer.

The fees paid in connection with the preparation and distribution of this Bidder's Statement and for services provided in connection with the Offer, including financial, legal and registry fees, are expected to total approximately \$325,000 (excluding GST).

10.9 Disclosure of interests of directors

The directors of Fitzroy have the following interests in Fitzroy Securities (either held directly, held by entities controlled by them or held by entities of which they are directors) as at the date of this Bidder's Statement. The directors of Fitzroy do not have any interests in 4DS Securities (either directly, held by entities controlled by them or held by entities of which they are directors).

| Director | Fitzroy Ordinary Shares | Fitzroy Options |
|---------------------|-------------------------|------------------------|
| Mr Riccardo Vittino | 4,945,667 | 1,000,000 ¹ |
| Mr Tim Grice | - | 1,000,000 ¹ |
| Mr Peter Webse | 1,166,667 | 1,000,000 ¹ |

Notes:

1 Unlisted options exercisable at \$0.042 each on or before 25 June 2018.

Mr James Dorrian, Dr Guido Arnout, Mr David McAuliffe and Mr Howard Digby are proposed directors of Fitzroy and each have no interest in any Fitzroy Securities.

10.10 Fees and Benefits of Directors

The Constitution of Fitzroy provides that the Directors may be paid for their services as Directors a sum not exceeding such fixed sum per annum as may be determined by Fitzroy in general meeting.

The annual remuneration of the Directors for the last two financial years is as follows:

| Director | | Salary and Fees \$ | Other \$ | Total \$ |
|-----------------------------|-------------|-----------------------|---------------------|-------------|
| Mr Riccardo Vittino | FY2014/2015 | 39,000 | 24,650 ² | 63,650 |
| | FY2013/2014 | 30,000 | 1,887 | 48,687 |
| Mr Tim Grice ¹ | FY2014/2015 | 4,405 | 24,650 ² | 29,055 |
| | FY2013/2014 | - | - | - |
| Mr Peter Webse ¹ | FY2014/2015 | 11,145 ³ | 24,650 ² | 35,795 |
| | FY2013/2014 | - | - | - |

Notes:

1. Mr Grice and Mr Webse were appointed as Directors on 8 May 2015.
2. Value of 1,000,000 options received by each director, as approved by shareholders on 26 June 2015.
3. Includes fees for provision of company secretarial services.

Directors, companies associated with the Directors or their Associates are also reimbursed for all reasonable expenses incurred in the course of conducting their duties which include, but are not in any way limited to, out of pocket expenses, travelling expenses, disbursements made on behalf of Fitzroy and other miscellaneous expenses.

The remuneration of Directors is reviewed annually by Fitzroy.

Deeds of indemnity, insurance and access

Fitzroy has entered into a deed of indemnity, insurance and access with each of its Directors. Under these deeds, Fitzroy agrees to indemnify each officer to the extent permitted by the Corporations Act against any liability arising as a result of the officer acting as an officer of Fitzroy. Fitzroy is also required to maintain insurance policies for the benefit of the relevant officer and must also allow the officers to inspect board papers in certain circumstances.

10.11 Restricted Securities

As the Fitzroy Consideration Securities issued to accepting 4DS Shareholders will be issued in consideration for the acquisition of a "classified asset" (as defined in the ASX Listing Rules), 4DS Shareholders may be required under the ASX Listing Rules to enter into restriction agreement under which they will be restricted from trading their Fitzroy Ordinary Shares issued as Fitzroy Consideration Securities for periods of between 12 and 24 months.

Fitzroy will apply to the ASX for a waiver from the certain restriction requirements on the basis that a majority of 4DS Shareholders paid cash for their 4DS Shares upon issue by 4DS and have held their 4DS Shares for a substantial period of time prior to Fitzroy making the Offer.

It is anticipated that:

- 105,446,718 Fitzroy Ordinary Shares to be issued to the 4DS Securityholders (or their nominees) under the Offer and the Private Treaty Offers will be subject to ASX escrow for 24 months from the date of re-compliance with the Listing Rules;
- 25,690,368 Fitzroy Class 1 Performance Shares to be issued to the 4DS Securityholders (or their nominees) under the Offer and the Private Treaty Offers (and Fitzroy Ordinary Shares issued on conversion of those Fitzroy Class 1 Performance Shares) will be subject to ASX escrow for 24 months from the date of re-compliance with the Listing Rules;

- 3,233,456 Fitzroy Ordinary Shares to be issued to the 4DS Securityholders (or their nominees) under the Offer and the Private Treaty Offers will be subject to ASX escrow until various dates between 22 October 2015 and 16 March 2016 (being 12 months after the date that the 4DS Securityholder subscribed for the relevant 4DS Securities);
- 41,913,651 Fitzroy Class 1 Performance Shares to be issued to the 4DS Securityholders (or their nominees) under the Offer and the Private Treaty Offers (and Fitzroy Ordinary Shares issued on conversion of those Fitzroy Class 1 Performance Shares) will be subject to ASX escrow for 12 months from the date of re-compliance with the Listing Rules;
- 36,458,333 Fitzroy Options to be granted to Dr Guido Arnout under a Private Option Offer will be subject to ASX escrow for 24 months from the date of re-compliance with the Listing Rules; and
- 30,000,000 Fitzroy Options to be granted to a corporate adviser of Fitzroy (or their nominees) will be subject to ASX escrow for 24 months from the date of re-compliance with the Listing Rules.

None of the Fitzroy Ordinary Shares issued under the Prospectus Offer are expected to be restricted securities.

As part of the acceptance documentation for the Takeover Offers and the Private Treaty Offers, the 4DS Securityholders will acknowledge that some or all of the Fitzroy Securities may be escrowed in accordance with the requirements of ASX and will sign such form of escrow agreement as required by the ASX.

The restricted securities listed above are subject to change depending on the escrow periods imposed by ASX in accordance with the Listing Rules. Prior to Fitzroy's Shares being reinstated to trading on the ASX, Fitzroy will enter into escrow agreements with the recipients of the restricted securities in accordance with Chapter 9 of the Listing Rules, and Fitzroy will announce to ASX full details (quantity and duration) of the Securities required to be held in escrow.

10.12 Exclusivity

Under the Bid Implementation Agreement, Fitzroy and 4DS have agreed to an exclusivity period commencing on the date of the Bid Implementation Agreement (being 13 August 2015) and ending on 31 December 2015 (subject to earlier completion of the Offer or termination of the Bid Implementation Agreement) during which neither party may solicit other proposals without the other party's consent and must notify each other if a Competing Proposal is received. In the event that a Competing Proposal is received by 4DS which is superior to the Offer, Fitzroy will have an opportunity to vary the terms of the Offer to match or better such a Superior Proposal.

10.13 Expenses of the Offer

The total amount of cash that Fitzroy may become obliged to pay to satisfy all expenses incurred by Fitzroy and relating to the Offers will be provided from Fitzroy's existing cash balances.

Fitzroy estimates it will incur the following fees for services provided in connection with the Offer:

| | Proposed Minimum Capital Raising (\$2.25 million) | Proposed Maximum Capital Raising (\$2.75 million) |
|---|---|---|
| ASX quotation fee | \$70,979 | \$71,479 |
| ASIC Fees | \$5,140 | \$5,140 |
| Legal, accounting and due diligence expenses | \$305,778 | \$305,778 |
| Capital raising fee in relation to the Prospectus Offer | \$135,000 | \$165,000 |
| Printing, mailing, share registry and other expenses | \$17,500 | \$17,500 |
| Other | \$5,000 | \$5,000 |
| Total | \$539,397 | \$569,897 |

10.14 Material litigation

Fitzroy is not aware of any litigation or threatened, or other legal proceedings in relation to Fitzroy.

10.15 Notice to Foreign Shareholders

This Bidder's Statement and the Offers do not constitute an offer of securities in any jurisdiction in which it would be unlawful. In particular, this Bidder's Statement may not be distributed to any person, and the Fitzroy Securities may not be offered or sold, in any country outside Australia except to existing 4DS shareholders and to the extent permitted below.

Hong Kong

WARNING - The contents of this document have not been reviewed by any regulatory authority in Hong Kong. You are advised to exercise caution in relation to the Offers. If you are in any doubt about any of the contents of this document, you should obtain independent professional advice.

This document also does not constitute a prospectus (as defined in section 2(1) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong)) or notice, circular, brochure or advertisement offering any securities to the public for subscription or purchase or calculated to invite such offers by the public to subscribe for or purchase any securities, nor is it an advertisement, invitation or document which is or contains an invitation falling within the meaning of section 103 of the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong). Accordingly, unless permitted by the securities laws of Hong Kong, no person may issue or have in its possession for the purposes of issue, this document or any advertisement, invitation or document relating to the Offers, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the securities laws of Hong Kong).

Copies of this document may be issued to a limited number of persons in Hong Kong in a manner which does not constitute any issue, circulation or distribution of this document, or any offer or an invitation in respect of these securities, to the public in Hong Kong. The document is for the exclusive use of 4DS Shareholders in connection with the Offers, and no steps have been taken to register or seek authorisation for the issue of this document in Hong Kong. Only the person to whom a copy of this document has been issued may take action in response to this document. The Offers are personal to the person to whom this document has been delivered, and an acquisition or subscription for securities under the Offers will only be accepted from such person.

This document is confidential to the person to whom it is addressed and no person to whom a copy of this document is issued may issue, circulate, distribute, publish, reproduce or disclose (in whole or in part) this document to any other person in Hong Kong or use for any purpose in Hong Kong other than in connection with the consideration of the Offers by the person to whom this document is addressed.

Singapore

This document has not been lodged or registered as a prospectus in Singapore with the Monetary Authority of Singapore ("MAS") and therefore, the statutory liability under the Securities and Futures Act (Cap. 289) ("SFA") in relation to the content of prospectuses will not apply. The MAS assumes no responsibility for the contents of this document. The MAS has not in any way considered the merits of the Fitzroy Securities being offered pursuant to the Offers as described in this document. You should consider carefully whether this offer is suitable for you.

This document and any other document or material in connection with the offer or sale, or invitation for subscription or purchase of Fitzroy Securities may not be circulated or distributed, nor may Fitzroy Securities be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore except pursuant to and in accordance with the exemption set out in section 273(1)(b) of the SFA or otherwise in accordance with any other relevant exemption under the SFA.

Any offer of Fitzroy Securities is personal to you, as a current shareholder of 4DS, and is not made to you with a view to the securities being subsequently offered for sale to any other party. You are advised to acquaint yourself with the SFA provisions relating to on-sale restrictions in Singapore and comply accordingly.

United Kingdom

Neither the information in this document nor any other document relating to the offer has been delivered for approval to the Financial Services Authority in the United Kingdom and no prospectus (within the meaning of

section 85 of the Financial Services and Markets Act 2000, as amended ("FSMA")) has been published or is intended to be published in respect of the Fitzroy Securities offered. This document is issued on a confidential basis to "qualified investors" (within the meaning of section 86(7) of FSMA) and to fewer than 150 persons (other than "qualified investors" (within the meaning of section 86(7) of FSMA)) in the United Kingdom, and the Fitzroy Securities may not be offered or sold in the United Kingdom by means of this document, any accompanying letter or any other document, except in circumstances which do not require the publication of a prospectus pursuant to section 86(1) FSMA. This document should not be distributed, published or reproduced, in whole or in part, nor may its contents be disclosed by recipients to any other person in the United Kingdom.

Any invitation or inducement to engage in investment activity (within the meaning of section 21 FSMA) received in connection with the issue or sale of the Fitzroy Securities has only been communicated or caused to be communicated and will only be communicated or caused to be communicated in the United Kingdom in circumstances in which section 21(1) FSMA does not apply to Fitzroy.

In the United Kingdom, this document is being distributed only to, and is directed at, persons to whom it may lawfully be made within the circumstances described in Article 62 of the Financial Services and Markets Act 2000 (Financial Promotions) Order 2005 (the "FPO") (members of certain bodies corporate), (ii) Article 67 of the FPO (promotions required or permitted by market rules) or (iii) to whom it may otherwise be lawfully communicated (together "relevant persons"). The investments to which this document relates are available only to, and any invitation, offer or agreement to purchase will be engaged in only with, relevant persons. Any person who is not a relevant person should not act or rely on this document or any of its contents.

United States

The Bidder's Statement has not been filed with, or reviewed by, the US Securities and Exchange Commission or any state securities authority and none of them has passed upon or endorsed the merits of the Offers or the accuracy, adequacy or completeness of the Bidder's Statement. Any representation to the contrary is a criminal offence.

The shares to be issued pursuant to the Offers have not been, and will not be, registered under the US Securities Act 1933 or the securities laws of any US state or other jurisdiction. The Offers are not being made in any US state or other jurisdiction where it is not legally permitted to do so.

US shareholders of 4DS should note that the Offers are made for the securities of an Australian company in accordance with the laws of Australia and the listing rules of the Australian Securities Exchange. The Offers are subject to disclosure requirements of Australia that are different from those of the United States.

It may be difficult for you to enforce your rights and any claim you may have arising under US federal securities laws, since Fitzroy is located in Australia and most of its officers and directors are residents of Australia. You may not be able to sue Fitzroy or its officers or directors in Australia for violations of the US securities laws. It may be difficult to compel Fitzroy and its affiliates to subject themselves to a US court's judgment.

You should be aware that Fitzroy may purchase securities otherwise than under the Offers, such as in privately negotiated purchases.

10.16 Status of conditions

The conditions of the Ordinary Share Offer are set out in Section 8 of Annexure A. The conditions of the Preference Share Offer are set out in Section 8 of Annexure B.

Fitzroy will use all reasonable endeavours to ensure the Conditions are satisfied as soon as possible after the date of this Bidder's Statement.

As at the date of this Bidder's Statement, Fitzroy is not aware of any events which would result in a breach or inability to satisfy the Conditions.

Fitzroy will give a notice of the status of the Conditions in accordance with the Corporations Act on 12 November 2015 (subject to extension if the Offer Period is extended).

10.17 Consents

Each of the parties referred to in this Section 10.17:

- (a) makes no representation regarding, and to the maximum extent permitted by law expressly disclaims and takes no responsibility for, any statements in or omissions from any part of this Bidder's Statement

other than a reference to its name and a statement included in this Bidder's Statement with the consent of that party as specified in this Section 10.17 (if any); and

- (b) has not caused or authorised the issue of this Bidder's Statement or the making of the Offer.

Each of the following has consented to being named in this Bidder's Statement in the form and context as noted below and have not withdrawn such consent prior to the lodgement of this Bidder's Statement with ASIC:

- (a) GTP Legal as legal advisers to Fitzroy in relation to the Offer; and
- (b) Automic Registry Services as the share registry of Fitzroy.

10.18 Other material information

There is no other information material to the making of a decision by a holder of 4DS Ordinary Shares or 4DS Preference Shares whether or not to accept the Offers, being information that is known to Fitzroy and which has not previously been disclosed to holder of 4DS Ordinary Shares or 4DS Preference Shares other than as is contained elsewhere in this Bidder's Statement.

10.19 Early despatch

The directors of 4DS have agreed that Fitzroy may send this Bidder's Statement to 4DS Shareholders earlier than would otherwise be permitted under the Corporations Act.

10.20 Expiry date

No securities will be issued on the basis of this Bidder's Statement after the date which is 13 months after the date of this Bidder's Statement, being the expiry date of this Bidder's Statement.

10.21 Date for determining holders

For the purposes of Section 633 of the Corporations Act, the date for determining the people to whom this Bidder's Statement is sent is the Record Date.

10.22 ASIC modifications and exemptions, ASX waivers

ASIC has published various "Class Order" instruments providing for modifications and exemptions that apply generally to all persons, including Fitzroy, in relation to the operation of Chapter 6 of the Corporations Act. Fitzroy may rely on this "Class Order" relief.

In addition, Fitzroy has obtained a waiver from ASX to permit it to:

- (a) issue Fitzroy Shares under the Prospectus Offer to proposed Director, Mr Howard Digby; and
- (b) grant Fitzroy Options to former Director Mr Tom Henderson (being part of the 30,000,000 Fitzroy Options to be granted to a corporate adviser of Fitzroy),

later than one month following the Fitzroy Shareholder Meeting but no later than three months following the Fitzroy Shareholder.

The Takeover Bid will require Fitzroy to meet the requirements of Chapters 1 and 2 of the ASX Listing Rules as if Fitzroy were applying for admission to the official list of ASX. These requirements include that:

- (a) the main class of a company's securities for which a company seeks quotation must have an issue price of at least 20 cents in cash (pursuant to Listing Rule 2.1 Condition 2); and
- (b) the exercise price for any options on issue must be at least 20 cents in cash (pursuant to Listing Rule 1.1 Condition 11).

The terms of the proposed capital raising will not meet the requirements set out in Listing Rule 2.1 Condition 2 as the Prospectus Offer is proposed to be completed at an issue price of 2.5 cents per Fitzroy Share, being an issue price of less than 20 cents.

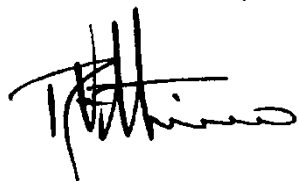
Following completion of the Takeover Bid, Fitzroy will have Fitzroy Options (being the Fitzroy Options to be granted to Dr Guido Arnout under a Private Option Offer and the Fitzroy Options to be granted to a corporate

adviser of Fitzroy (or their nominees) on issue with an exercise price of 2 cents, being less than the 20 cent exercise price required by Listing Rule 1.1 Condition 11.

Fitzroy has obtained a waiver of ASX Listing Rule 2.1 Condition 2, together with a waiver of ASX Listing Rule 1.1 Condition 11, to allow Fitzroy to issue the Shares under the Prospectus Offer at 2.5 cents per Share, and to have the Fitzroy Options on issue with an exercise price of 2 cents.

11. Directors Authorisation

This Bidder's Statement is dated 7 October 2015 and was approved pursuant to a unanimous resolution passed by the directors of Fitzroy.

A handwritten signature in black ink, appearing to read 'R. Vittino', with a stylized flourish at the end.

Signed for and on behalf of
Fitzroy Resources Ltd
Riccardo Vittino
Director

12. Definitions and Interpretation

12.1 Definitions

In this Bidder's Statement (including its annexures), unless the context otherwise requires:

\$ or Dollar means Australian dollars.

4DS means 4D-S Limited (ACN 124 234 395).

4DS A Class Share means an A Class share in the capital of 4DS.

4DS A Class Shareholder means a holder of 4DS A Class Shares.

4DS Board means the board of directors of 4DS.

4DS Group means 4DS and its related bodies corporate.

4DS, Inc means 4DS, Inc, a wholly owned subsidiary of 4DS.

4DS IPO means an initial public offering of 4DS securities and a listing on a recognised securities exchange.

4DS Material Adverse Change means:

- (i) an event, change, condition, matter or thing occurs or will or is reasonably likely to occur;
- (ii) information is disclosed or announced by 4DS concerning any event, change, condition, matter or thing that has occurred or is reasonably likely to occur; or
- (iii) information concerning any event, change, condition, matter or thing that has occurred or is reasonably likely to occur becomes known to Fitzroy (whether or not becoming public),

(each of (i), (ii) and (iii) a **Specified Event**) which, whether individually or when aggregated with all such events, changes, conditions, matters or things of a like kind that have occurred or are reasonably likely to occur, has had or would be considered reasonably likely to have:

- (iv) a material adverse effect on the business, assets, liabilities, financial or trading position, profitability or prospects of the 4DS Group taken as a whole; or
- (v) without limiting the generality of paragraph (iv) above, the effect of a diminution in the value of the consolidated net assets of the 4DS Group, taken as a whole, by at least \$500,000 against what it would reasonably have been expected to have been but for such Specified Event,

other than:

- (vi) an event, matter, change or circumstance caused, or materially contributed to, by Fitzroy;
- (vii) anything required or permitted to be done or not done under this agreement or otherwise required to be done in connection with the legal obligations for the implementation of the Offers;
- (viii) any event, matter, change or circumstance:
 - (A) fairly disclosed by 4DS to Fitzroy or any Related Person of Fitzroy;
 - (B) disclosed in public filings by 4DS to ASX or ASIC; or
 - (C) otherwise known by Fitzroy or any Related Person of Fitzroy,at any time prior to the date of the Bid Implementation Agreement;
- (ix) an event, matter, change or circumstance in or relating to:
 - (A) economic, business, regulatory or political conditions in general;
 - (B) credit, financial or currency markets in general, or the state of securities markets in general (including any reduction in market indices);

- (C) any change affecting the industry in which 4DS operates generally;
- (x) the portion of any event, matter, change or circumstances which is as a consequences of losses, expenses, damages or other costs covered by insurance which 4DS's insurers have agreed to pay; or
- (xi) anything done with the prior written consent of Fitzroy.

4DS Non-voting Securities means 4DS Options or 4DS A Class Shares.

4DS Non-voting Securityholder means a 4DS Optionholder or 4DS A Class Shareholder.

4DS Option means an option to acquire a 4DS Ordinary Share or a 4DS Preference Share (as the case may be) on the principal terms set out in Annexure D.

4DS Optionholder means a holder of 4DS Options.

4DS Ordinary Share means a fully paid ordinary share in the capital of 4DS.

4DS Ordinary Shareholder means a holder of 4DS Ordinary Shares.

4DS Preference Share means a preference share in the capital of 4DS.

4DS Preference Shareholder means a holder of 4DS Preference Shares.

4DS Securities means 4DS Ordinary Shares, 4DS Preference Shares, 4DS Options or 4DS A Class Shares.

4DS Securityholder means a 4DS Ordinary Shareholder, 4DS Preference Shareholder, 4DS Optionholder or 4DS A Class Shareholder.

4DS Share means a 4DS Ordinary Share or a 4DS Preference Share (or both of them), as the context requires.

4DS Shareholder means a 4DS Ordinary Shareholder or a 4DS Preference Shareholder (or both of them), as the context requires.

Acceptance Form means the Ordinary Share Offer Acceptance Form or the Preference Share Offer Acceptance Form (or both of them), as the context requires.

Announcement Date means 13 August 2015, being the date the Offers were announced on ASX.

Associate has the meaning given in chapter 6 of the Corporations Act.

ASIC means the Australian Securities and Investments Commission.

ASX Settlement Corporation means ASX Settlement Pty Ltd ABN 49 008 504 532.

ASX Settlement Operating Rules means the operating rules of the ASX Settlement Facility (as defined in Rule 1.1.1 and Rule 1.1.2 of the ASX Settlement Operating Rules) in accordance with Rule 1.2 which govern, inter alia, the administration of the CHESS subregisters.

ASX means ASX Limited ACN 008 624 691 or the Australian Securities Exchange (as the context requires).

ASX Listing Rules means the official listing rules of ASX, as amended from time to time.

Bid Implementation Agreement or **BIA** means the bid implementation agreement between Fitzroy and 4DS dated 13 August 2015.

Bid Period has the meaning given to that term in the Corporations Act.

Bidder's Statement means this document including the Annexures.

Board or **Fitzroy Board** means the board of directors of Fitzroy.

Business Day means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in Perth, Western Australia.

CGT means capital gains tax as defined in the Income Tax Assessment Act 1997 (Cth).

CHESS means Clearing House Electronic Subregister System as defined in Rule 2.3.1 of the ASX Settlement Operating Rules.

Competing Proposal means:

- (a) in relation to 4DS a bona fide proposal or offer that, if successfully completed, would result in a person other than Fitzroy or its associates:
 - (i) directly or indirectly acquiring a relevant interest or an economic interest in 15% or more of the 4DS Shares or of the share capital of any of the 4DS's Related Bodies Corporate;
 - (ii) directly or indirectly acquiring control of 4DS;
 - (iii) directly or indirectly acquiring or becoming the holder of any interest in all or a substantial part of the business or assets of 4DS or any of its Related Bodies Corporate; or
 - (iv) otherwise acquiring or merging with 4DS; and
- (b) in relation to Fitzroy, a bona fide proposal or offer that, if successfully completed, would result in a person other than 4DS or its associates:
 - (i) directly or indirectly acquiring a relevant interest or an economic interest in 15% or more of the Fitzroy Ordinary Shares or of the share capital of any of Fitzroy's related bodies corporate;
 - (ii) directly or indirectly acquiring control of Fitzroy;
 - (iii) directly or indirectly acquiring or becoming the holder of any interest in all or a substantial part of the business or assets of Fitzroy or any of its related bodies corporate; or
 - (iv) otherwise acquiring or merging with Fitzroy;

whether by way of takeover offer, scheme of arrangement, shareholder-approved acquisition, capital reduction, buy back, sale or purchase of shares or assets, joint venture, dual listed company structure (or other synthetic merger) or other transaction or arrangement.

Conditions means the Ordinary Share Offer Conditions or the Preference Share Offer Conditions (or both of them), as the context requires.

Constitution means the constitution of Fitzroy.

Controlling Participant in relation to Your Shares has the same meaning as in the ASX Settlement Operating Rules.

Corporations Act means the *Corporations Act 2001* (Cth).

Director means a director of Fitzroy as at the date of this Bidder's Statement.

Essential Conditions means in respect of the Ordinary Share Offer, the conditions set out in Sections 8(a)(i) to 8(a)(iv) of Annexure A, and in respect of the Preference Share Offer, the conditions set out in Sections 8(a)(i) to 8(a)(iv) of Annexure B.

Essential Resolutions means resolutions 4 to 14 in the Notice of Meeting, being resolutions for approval of the following matters:

- (a) Change to nature and scale of activities;
- (b) Authority to issue Performance Shares;
- (c) Authority to issue Securities to 4DS Optionholders;
- (d) Authority to issue Shares to 4DS A Class Shareholders;
- (e) Authority to issue Capital Raising Shares
- (f) Authority to grant Adviser Options;
- (g) Authority to grant Adviser Options to Mr Tom Henderson;

- (h) Appointment of Dr Guido Arnout as a director;
- (i) Appointment of Mr James Dorrian as a director;
- (j) Appointment of Mr David McAuliffe as a director; and
- (k) Appointment of Mr Howard Digby as a director.

Fitzroy or Company means Fitzroy Resources Ltd (ACN 145 590 110).

Fitzroy Class 1 Performance Share or **Class 1 Performance Share** means a share in the capital of Fitzroy issued on the terms and conditions set out in Annexure E.

Fitzroy Consideration Securities means the Fitzroy Ordinary Shares and Fitzroy Class 1 Performance Shares to be issued as consideration under the Offers.

Fitzroy Existing Performance Shares means the existing performance shares on issue in the capital of Fitzroy with performance based conversion milestones relating to Fitzroy's acquisition of Premier Coal Limited.

Fitzroy Group means Fitzroy and its related bodies corporate.

Fitzroy Material Adverse Change means:

- (i) an event, change, condition, matter or thing occurs or will or is reasonably likely to occur;
- (ii) information is disclosed or announced by Fitzroy concerning any event, change, condition, matter or thing that has occurred or is reasonably likely to occur; or
- (iii) information concerning any event, change, condition, matter or thing that has occurred or is reasonably likely to occur becomes known to 4DS (whether or not becoming public),

(each of (i), (ii) and (iii) a **Specified Event**) which, whether individually or when aggregated with all such events, changes, conditions, matters or things of a like kind that have occurred or are reasonably likely to occur, has had or would be considered reasonably likely to have:

- (iv) a material adverse effect on the business, assets, liabilities, financial or trading position, profitability or prospects of the Fitzroy Group taken as a whole; or
- (v) without limiting the generality of paragraph (iv) above, the effect of a diminution in the value of the consolidated net assets of the Fitzroy Group, taken as a whole, by at least \$500,000 against what it would reasonably have been expected to have been but for such Specified Event,

other than:

- (vi) an event, matter, change or circumstance caused, or materially contributed to, by 4DS;
- (vii) anything required or permitted to be done or not done under the BIA or otherwise required to be done in connection with the legal obligations for the implementation of the Offers, the Prospectus Offers or the Re-Compliance Process;
- (viii) any event, matter, change or circumstance:
 - (A) fairly disclosed by Fitzroy to 4DS or any Related Person of Fitzroy;
 - (B) disclosed in public filings by Fitzroy to ASX or ASIC; or
 - (C) otherwise known by 4DS or any Related Person of 4DS,
 at any time prior to the date of the BIA;
- (ix) an event, matter, change or circumstance in or relating to:
 - (A) economic, business, regulatory or political conditions in general;
 - (B) credit, financial or currency markets in general, or the state of securities markets in general (including any reduction in market indices);

- (C) any change affecting the resources industry generally (including junior exploration companies, as well as fluctuations in commodity prices);
- (x) the portion of any event, matter, change or circumstances which is as a consequences of losses, expenses, damages or other costs covered by insurance which Fitzroy's insurers have agreed to pay; or
- (xi) anything done with the prior written consent of 4DS.

Fitzroy Option means an option to acquire a Fitzroy Ordinary Share.

Fitzroy Ordinary Share means a fully paid ordinary share in the capital of Fitzroy.

Fitzroy Securities means securities on issue in the capital of Fitzroy.

Fitzroy Securityholder means a holder of Fitzroy Securities.

Fitzroy Share means a share in the capital of Fitzroy, and includes the Fitzroy Ordinary Shares, the Fitzroy Existing Performance Shares and Fitzroy Class 1 Performance Shares.

Fitzroy Shareholder or **Shareholder** means a holder of Fitzroy Shares.

Fitzroy Shareholder Meeting means the general meeting of Fitzroy Shareholders to be held on Friday, 23 October 2015.

Foreign Law means a law of a jurisdiction other than Australia.

Government Agency means any government or governmental, semi-governmental, administrative, monetary, fiscal or judicial body, department, commission, authority, tribunal, agency or entity in any part of the world.

Intellectual Property means all items of intangible property and includes trademarks and service marks (whether or not registered or registration has been applied for), domain names, trade names, business names, designs, brand names, patents, patent applications, inventions (whether or not patented), trade secrets and copyrights (whether or not registered or registration has been applied for).

Joint Development Agreement means the collaboration agreement between HGST Netherlands B.V. and 4DS, Inc dated 17 June 2014 as amended effective as of 1 July 2015.

Merged Entity means Fitzroy and its subsidiaries following the acquisition by Fitzroy of all, or a portion of 4DS Securities on issue.

Milestone means the performance based milestone specified in clause 1(b) of Annexure E.

Minimum Acceptance Condition means the condition to the Ordinary Share Offer set out in Section 8(a)(iii) of Annexure A or the condition to the Preference Share Offer set out in Section 8(a)(iii) of Annexure B (or both of them), as the context requires.

Notice of Meeting means Fitzroy's notice of meeting despatched to Fitzroy Shareholders on 21 September 2015 to convene the Fitzroy Shareholder Meeting.

Offer or **Offers** means the Ordinary Share Offer or the Preference Share Offer (or both of them), as the context requires.

Offer Consideration means the Ordinary Share Offer Consideration or the Preference Share Offer Consideration (or both of them), as the context requires.

Offer Period means the period during which an Offer is open for acceptance.

Official List of the ASX means the official list of entities that ASX has admitted and not removed.

Ordinary Share Offer means the off market takeover offer by Fitzroy to acquire 4DS Ordinary Shares on the terms and conditions set out in this Bidder's Statement.

Ordinary Share Offer Acceptance Form means the form of acceptance for the Ordinary Share Offer accompanying this Bidder's Statement or alternatively any acceptance form sent to a 4DS Ordinary Shareholder by Fitzroy's share registry in relation to the Ordinary Share Offer.

Ordinary Share Offer Conditions means the conditions set out in Section 8 of Annexure A.

Ordinary Share Offer Consideration means the consideration set out in Section 1(b) of Annexure A.

Participant means an entity admitted to participate in the Clearing House Subregister System under Rule 4.3.1 and 4.4.1 of the ASX Settlement Operating Rules.

Preference Share Offer means the off market takeover offer by Fitzroy to acquire 4DS Preference Shares on the terms and conditions set out in this Bidder's Statement.

Preference Share Offer Acceptance Form means the form of acceptance for the Preference Share Offer accompanying this Bidder's Statement or alternatively any acceptance form sent to a 4DS Ordinary Shareholder by Fitzroy's share registry in relation to the Preference Share Offer.

Preference Share Offer Conditions means the conditions set out in Section 8 of Annexure B.

Preference Share Offer Consideration means the consideration set out in Section 1(b) of Annexure B.

Prescribed Occurrence means (other than as required or contemplated by the Bid Implementation Agreement) the occurrence of any of the following (being the occurrences listed in section 652C of the Corporations Act):

- (a) 4DS converting all or any of the 4DS Shares into a larger or smaller number of Shares under Section 254H of the Corporations Act;
- (b) 4DS or a Subsidiary of 4DS resolving to reduce its share capital in any way;
- (c) 4DS or a Subsidiary of 4DS entering into a buy-back agreement or resolving to approve the terms of a buy-back agreement under section 257C(1) or 257D(1) of the Corporations Act;
- (d) 4DS or a Subsidiary of 4DS making an issue of shares (other than the issue of A Class Shares or the issue of shares on the exercise of options or conversion of convertible notes) or granting an option over the shares or agreeing to make such an issue or grant such an option;
- (e) 4DS or a Subsidiary of 4DS issuing, or agreeing to issue, convertible notes;
- (f) 4DS or a Subsidiary of 4DS disposing or agreeing to dispose, of the whole, or a substantial part, of its business or property;
- (g) 4DS or a Subsidiary of 4DS granting, or agreeing to grant, a Security Interest in the whole, or a substantial part, of its business or property;
- (h) 4DS or a Subsidiary of 4DS resolving that it be wound up (other than the Japanese subsidiary);
- (i) the appointment of a liquidator or provisional liquidator of the 4DS or a Subsidiary of 4DS;
- (j) the making of an order by a court for the winding up of 4DS or a Subsidiary of 4DS;
- (k) an administrator of 4DS or a Subsidiary of 4DS being appointed under section 436A, 436B or 436C of the Corporations Act;
- (l) 4DS or a Subsidiary of 4DS executing a deed of company arrangement; or
- (m) the appointment of a receiver, receiver and manager, other controller (as defined in the Corporations Act) or similar official in relation to the whole, or a substantial part, of the property of 4DS or a Subsidiary of 4DS.

Prospectus means the prospectus proposed to be issued by Fitzroy in connection with the Prospectus Offer.

Prospectus Offer has the meaning given in the Director's Letter section of this Bidder's Statement.

Private A Class Share Offer means an offer to each 4DS A Class Shareholder by private agreement to acquire all of their A Class Shares in return for the issue of 95.01187648 Fitzroy Ordinary Shares per A Class Share.

Private Option Offer means an offer to each 4DS Optionholder by private agreement to cancel all of their Options in return for the consideration specified in Annexure D.

Private Treaty Offer means a Private A Class Share Offer or a Private Option Offer (or both of them), as the context requires.

Public Authority means any government or any governmental, semi-governmental, statutory or judicial entity, agency or authority, whether in Australia or elsewhere, including (without limitation) any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions, and ASX or any other stock exchanges.

Re-Compliance Process means the process and actions undertaken by Fitzroy to re-comply with Chapters 1 and 2 of the Listing Rules, including preparation of the Prospectus.

Record Date means the date set by Fitzroy under Section 633(2) of the Corporations Act, being 5:00pm (WST) on 7 October 2015.

Related Body Corporate has the meaning given in Section 50 of the Corporations Act.

Related Person means:

- (a) a related body corporate;
- (b) its advisers or an adviser of a related body corporate of that party; or
- (c) an officer or employee of any entity referred to in paragraphs (a) or (b) of this definition.

Relevant Interest has the meaning given in Section 9 of the Corporations Act.

Rights means all accreditations, benefits and rights attaching to or arising from 4DS Shares directly or indirectly at or after the Announcement Date (including, but not limited to, all dividends and all rights to receive dividends and to receive or subscribe for shares, stock units, notes or options declared, paid, or issued by 4DS).

Subsidiary has the meaning given to that term in Division 6 of Part 1.2 of the Corporations Act.

Superior Proposal means a Competing Proposal in relation to 4DS that the 4DS Board determines in good is:

- (a) reasonably capable of being valued and completed in a timely manner, taking into account all aspects of the Competing Proposal and the person making it; and
- (b) more favourable to 4DS Shareholders as a whole than the Offers, taking into account all the terms and conditions of the Competing Proposal.

Takeover Bid means the Ordinary Share Offer or the Preference Share Offer (or both of them), as the context requires.

Unconditional means Fitzroy issuing a notice in accordance with section 630(3) of the Corporations Act, declaring that a Takeover Bid is free or freed (as the case may be) from all defeating conditions otherwise applicable to the Takeover Bid other than the Prescribed Occurrence Condition, subject to compliance with section 650F(1)(a) of the Corporations Act.

VWAP means volume weighted average price of 'on market' trades on ASX (i.e. normal trades, cross trades, stabilisation trades and short sell trades).

WST means Western Standard Time, being the time in Perth, Western Australia.

Your Ordinary Shares or **Your 4DS Ordinary Shares** means the 4DS Ordinary Shares: (a) in respect of which you are registered, or entitled to be registered, as holder in the register of shareholders of 4DS at 5.00pm (WST) on the Record Date; or (b) to which you are able to give good title at the time you accept the Ordinary Share Offer during the Offer Period.

Your Preference Shares or **Your 4DS Preference Shares** means the 4DS Preference Shares: (a) in respect of which you are registered, or entitled to be registered, as holder in the register of shareholders of 4DS at 5.00pm (WST) on the Record Date; or (b) to which you are able to give good title at the time you accept the Preference Share Offer during the Offer Period.

Your Shares means Your Ordinary Shares or Your Preference Shares (or both of them) as the context requires.

12.2 Interpretation

- (a) The words 'include', 'including', 'for example' or 'such as' are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.
- (b) The following rules of interpretation apply unless intention appears or the context requires otherwise:
 - (i) a reference to a time is a reference to Perth (Western Australian) time, unless otherwise stated;
 - (ii) headings are for convenience only and do not affect interpretation;
 - (iii) the singular includes the plural and conversely;
 - (iv) a reference to a Section is to a Section of this Bidder's Statement;
 - (v) a gender includes all genders;
 - (vi) where a word or phrase is defined, the other grammatical forms have a corresponding meaning;
 - (vii) \$, or cents is a reference to the lawful currency in Australia, unless otherwise stated;
 - (viii) a reference to a person includes a body corporate, an unincorporated body or other entity and conversely;
 - (ix) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
 - (x) a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it;
 - (xi) a reference to any instrument or document includes any variation or replacement of it;
 - (xii) a term not specifically defined in this Bidder's Statement has the meaning given to it (if any) in the Corporations Act;
 - (xiii) a reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, as the case may be, jointly and individually;
 - (xiv) a reference to you is to a person to whom the Offer is made; and

Annexure A – Terms of Ordinary Share Offer

1. General Terms

- (a) Fitzroy offers to acquire all of Your 4DS Ordinary Shares, together with all Rights attached to them, on the following terms and conditions set out in this Offer.
- (b) The Ordinary Share Offer Consideration being offered by Fitzroy for the acquisition of all of Your 4DS Ordinary Shares is:
 - (i) 110.4400015 Fitzroy Ordinary Shares; and
 - (ii) 20.5905086 Fitzroy Class 1 Performance Shares,for every one 4DS Ordinary Share you own, subject to the terms and conditions set out in this Offer. Fractional entitlements, if any will be rounded to the nearest whole number.
- (c) The rights and obligations of the Fitzroy Shares to be issued under the Offer are summarised in Sections 4.6 and 4.7 of the Bidder's Statement.
- (d) The Offer is dated 8 October 2015.

2. Offer Period

- (a) Unless withdrawn, this Offer will remain open for acceptance during the period commencing on the date of this Offer (being 8 October 2015) and ending at 5:00 pm (WST) on the later of:
 - (i) 19 November 2015; or
 - (ii) any date to which the Offer Period is extended, in accordance with the Corporations Act.
- (b) Fitzroy reserves the right, exercisable in its sole discretion, to extend the Offer Period in accordance with the Corporations Act.
- (c) If, within the last 7 days of the Offer Period, either of the following events occurs:
 - (i) the Offer is varied to improve the consideration offered; or
 - (ii) Fitzroy's voting power in 4DS increases to more than 50%,then the Offer Period will automatically be extended so that it ends 14 days after the relevant events in accordance with Section 624(2) of the Corporations Act.

3. Who May Accept

- (a) An Offer in this form and bearing the same date is being made to each person registered as a holder of 4DS Ordinary Shares on 4DS's register of members at 5.00pm (WST) on the Record Date.
- (b) The Offer also extends to each person who, during the period from the Record Date until the end of the Offer Period, becomes registered as a holder of 4DS Ordinary Shares due to the conversion of, or exercise of rights conferred by 4DS Options that are on issue at the Record Date and any person who becomes registered as the holder of Your 4DS Ordinary Shares during the Offer Period.
- (c) A person who:
 - (i) is able during the Offer Period to give good title to a parcel of 4DS Ordinary Shares; and
 - (ii) has not already accepted this Offer which relates to those 4DS Ordinary Shares,may accept as if an Offer from Fitzroy on terms identical with this Offer had been made to that person in relation to those 4DS Ordinary Shares.

- (d) If, at the time the Offer is made to you, or at any time during the Offer Period, another person is registered as the holder of some or all of Your 4DS Ordinary Shares, then:
 - (i) a corresponding offer on the same terms and conditions as this Offer will be deemed to have been made to that other person in respect of those 4DS Ordinary Shares; and
 - (ii) a corresponding offer on the same terms and conditions as this Offer will be deemed to have been made to you in respect of any other 4DS Ordinary Shares you hold to which the Offer relates; and
 - (iii) this Offer will be deemed to have been withdrawn immediately at that time.
- (e) If at any time during the Offer Period you are registered as the holder of one or more parcels of 4DS Ordinary Shares as trustee or nominee for, or otherwise on account of, another person, you may accept as if a separate and distinct offer on the same terms and conditions as this Offer has been made in relation to each of those parcels and any parcel you hold in your own right. To validly accept the Offer for each distinct parcel, you must comply with the procedure in Section 653B(3) of the Corporations Act. If, for the purposes of complying with that procedure, you require additional copies of this Bidder's Statement and/or the Acceptance Form, please call Fitzroy on +61 8 9481 7111 to request those additional copies.
- (f) This Offer is not registered in any jurisdiction outside Australia (unless an applicable foreign law treats it as registered as a result of the Bidder's Statement being lodged with ASIC). The Offer is not registered in New Zealand, but is being made in New Zealand pursuant to the Securities Act (Overseas Companies) Exemption Notice 2013. It is your sole responsibility to satisfy yourself that you are permitted by any foreign law applicable to you to accept this Offer and to comply with any other necessary formality and to obtain any necessary governmental or other consents.
- (g) If Your 4DS Ordinary Shares are registered in the name of a broker, investment dealer, bank, trust company or other nominee you should contact that nominee for assistance in accepting this Offer.

4. **How to Accept this Offer**

- (a) Subject to Section 3(e) of this Annexure A, you may only accept this Offer in respect of all (and not a lesser number) of Your 4DS Ordinary Shares. For example, if you have 10,000 4DS Ordinary Shares and you wish to accept the Offer, you may only accept this Offer in respect of 10,000 4DS Ordinary Shares.
- (b) You may accept this Offer at any time during the Offer Period.
- (c) To accept this Offer for 4DS Ordinary Shares held in your name on 4DS's register, you must:
 - (i) complete and sign the Acceptance Form in accordance with the terms of this Offer and the instructions on the Acceptance Form; and
 - (ii) ensure that the Acceptance Form (including any documents required by the terms of this Offer and the instructions on the Acceptance Form) is received before the end of the Offer Period, at the address shown on the Acceptance Form.

Acceptance Form and Other Documents

- (d) The Ordinary Share Acceptance Form forms part of the Offer. The requirements on the Ordinary Share Acceptance Form must be observed in accepting the Offer.
- (e) For your acceptance to be valid you must ensure that your Ordinary Share Acceptance Form (including any documents required by the terms of this Offer and the instructions on the Ordinary Share Acceptance Form) are posted or delivered in sufficient time for it to be received by Fitzroy at the address shown on the Ordinary Share Acceptance Form before the end of the Offer Period.

- (f) The postage and transmission of the Acceptance Form and other documents is at your own risk.
- (g) When accepting the Offer, you must also forward for inspection:
 - (i) if the Ordinary Share Acceptance Form is executed by an attorney, a certified copy of the power of attorney; and
 - (ii) if the Ordinary Share Acceptance Form is executed by the executor of a will or the administrator of the estate of a deceased 4DS Ordinary Shareholder, the relevant grant of probate or letters of administration.
- (h) When accepting the Offer, you must also provide a duly executed copy of the restriction agreement (which will be provided to you by the Company) in respect of some or all of your Fitzroy Consideration Securities as required by ASX.

5. **Validity of Acceptances**

- (a) Subject to this Section 5 of this Annexure A, your acceptance of the Offer will not be valid unless it is made in accordance with the procedures set out in Section 4 of this Annexure A.
- (b) Fitzroy will determine, in its sole discretion, all questions as to the form of documents, eligibility to accept the Offer and time of receipt of an acceptance of the Offer. Fitzroy is not required to communicate with you prior to or after making this determination. The determination of Fitzroy will be final and binding on all parties.
- (c) Notwithstanding Section 4 of this Annexure A, Fitzroy may at any time in its sole discretion:
 - (i) deem any Ordinary Share Acceptance Form it receives to be a valid acceptance notwithstanding that one or more of the other requirements for a valid acceptance have not been complied with and without further communication to you; and
 - (ii) where you have satisfied the requirements for acceptance in respect of only some of your 4DS Ordinary Shares, Fitzroy may, in its sole discretion, regard the Offer to be accepted in respect of those of Your 4DS Ordinary Shares but not the remainder.
- (d) In respect of any part of an acceptance treated by it as valid, Fitzroy will provide you with the relevant consideration in accordance with Section 1 of this Annexure A, and the exercise of Fitzroy's rights under Section 5(c) of this Annexure A will be conclusive and only evidenced by its so doing. The payment of consideration in accordance with the Offer may be delayed until any irregularity has been resolved or waived and any other documents required to procure registration have been received by Fitzroy.
- (e) This Section is not a condition of this Offer.

6. **The Effect of Acceptance**

- (a) Once you have accepted this Offer, you will be unable to revoke your acceptance and the contract resulting from your acceptance will be binding on you. In addition, you will be unable to withdraw your acceptance of the Offer or otherwise dispose of Your 4DS Ordinary Shares, except as follows:
 - (i) if, by the times specified in Section 6(b) of this Annexure A, the Conditions in Section 8(a) of this Annexure A have not all been fulfilled or waived, the Offer will automatically terminate and you will retain Your 4DS Ordinary Shares; or
 - (ii) if the Offer is varied in accordance with the Corporations Act in a way that postpones for more than one month the time when Fitzroy has to meet its obligations under the Offer, and, at the time, the Offer is subject to one or more of the Conditions in Section 8(a) of this Annexure A, you may be able to withdraw your acceptance in accordance with Section 650E of the Corporations Act.

- (b) The relevant times for the purposes of Section 6(a) of this Annexure A are:
- (i) in relation to the Condition that relates only to the happening of an event or circumstance referred to in Section 652C(1) or (2) of the Corporations Act in relation to 4DS, the end of the third business day after the end of the Offer Period; and
 - (ii) in relation to all other conditions in Section 8(a) of this Annexure A, the end of the Offer Period.
- (c) By following the procedures described in Section 4 of this Annexure A, you will be deemed to have:
- (i) accepted this Offer (and any variation to it) in respect of Your 4DS Ordinary Shares and agreed to sell all of Your 4DS Ordinary Shares to Fitzroy, regardless of the number of 4DS Ordinary Shares specified in the Ordinary Share Acceptance Form;
 - (ii) agreed to the terms of the Offer and, subject to the Conditions contained in Section 8(a) of this Annexure A being fulfilled or waived, agreed to transfer to Fitzroy all of Your 4DS Ordinary Shares and all of the Rights attached to those 4DS Ordinary Shares in accordance with the terms of the Offer;
 - (iii) agreed to accept the consideration being offered by Fitzroy and have authorised Fitzroy to place your name on its register of shareholders in respect of Fitzroy Shares offered by Fitzroy as consideration, and agreed to be bound by the Constitution of Fitzroy;
 - (iv) irrevocably authorised Fitzroy (and any director, secretary, nominee or agent of Fitzroy) to alter the Ordinary Share Acceptance Form on your behalf by completing any blanks and correcting any errors in, or omissions from, the Ordinary Share Acceptance Form as may be necessary:
 - (A) to make the Ordinary Share Acceptance Form an effective acceptance of this Offer; and/or
 - (B) to enable registration of the transfer to Fitzroy of Your 4DS Ordinary Shares;
 - (v) irrevocably authorised and directed 4DS to pay to Fitzroy or to account to Fitzroy for all Rights which are declared, paid or which arise or accrue after the date of this Offer in respect of Your 4DS Ordinary Shares (subject to Fitzroy accounting to you for any such Rights received by it if your acceptance of this Offer is validly withdrawn pursuant to Section 650E of the Corporations Act or the contract resulting from that acceptance becomes void);
 - (vi) represented and warranted to Fitzroy that:
 - (A) Fitzroy will acquire good title to and beneficial ownership of all of Your 4DS Ordinary Shares free from all mortgages, charges, liens, encumbrances (whether legal or equitable) and other third party interests of any kind and free from restrictions on transfer of any nature (whether legal or otherwise);
 - (B) you have paid 4DS all amounts which are due in respect of Your 4DS Ordinary Shares;
 - (C) all of Your 4DS Ordinary Shares are fully paid; and
 - (D) you have full power and capacity to accept the Offer and to sell and transfer the legal and beneficial ownership of Your 4DS Ordinary Shares (together with all Rights attached to them) to Fitzroy;
 - (vii) agreed to accept the Fitzroy Shares to which you become entitled by accepting this Offer subject to the Constitution and the terms of issue of the Fitzroy Shares and to

have authorised Fitzroy to place your name on its register of shareholders as the holder of the Fitzroy Shares issued to you under the Offer;

(viii) represented and warranted to Fitzroy that the making by Fitzroy to you, and your acceptance, of this Offer is lawful under any Foreign Law which applies to you, to the making of this Offer, and to your acceptance of this Offer;

(ix) with effect from the later of acceptance of the Offer and the date that any contract resulting from that acceptance becomes, or is declared, Unconditional, irrevocably appointed Fitzroy and each of its directors, secretaries and other officers from time to time severally as your agent and true and lawful attorney, with power to do all things which you could lawfully do concerning Your 4DS Ordinary Shares or in exercise of any right or power derived from the holding of Your 4DS Ordinary Shares including, without limitation:

- (A) attend and vote in respect of Your 4DS Ordinary Shares at any and all meetings of 4DS;
- (B) requisition or join with other holders of 4DS Ordinary Shares in requisitioning and/or convening a meeting of the members of 4DS;
- (C) demand a poll for any vote to be taken at any meeting of 4DS Ordinary Shareholders;
- (D) propose or second any resolutions to be considered at any, and all meetings of 4DS Ordinary Shareholders;
- (E) execute all forms, transfers, assignments, notices, instruments (including instruments appointing a director of Fitzroy as a proxy in respect of all or any of Your 4DS Ordinary Shares and a transfer form for Your 4DS Ordinary Shares), proxies, consents, agreements and resolutions relating to Your 4DS Ordinary Shares;
- (F) request 4DS to register in the name of Fitzroy or its nominee Your 4DS Ordinary Shares which you hold on any register of 4DS; and
- (G) do all things incidental or ancillary to the foregoing,

and to have agreed that in exercising the powers conferred by that power of attorney, the attorney shall be entitled to act in the interests of Fitzroy as the beneficial owner and intended registered holder of Your 4DS Ordinary Shares in respect of which you have accepted this Offer and to have further agreed to do all such acts, matters and things that Fitzroy may require to give effect to the matters the subject of this paragraph (including the execution of a written form of proxy to the same effect as this paragraph which complies in all respects with the requirements of the Constitution of 4DS) if requested by Fitzroy;

(x) with effect from the later of acceptance of the Offer and the date that any contract resulting from that acceptance becomes, or is declared Unconditional, agreed not to attend or vote in person, by proxy, or otherwise at any general meeting of 4DS or at any Court convened meeting of 4DS or to exercise (or purport to exercise) in person, by proxy or otherwise, any of the powers conferred on Fitzroy and the directors, secretaries and other officers of Fitzroy by Section 6(c)(ix) of this Annexure A;

(xi) irrevocably authorised Fitzroy to notify 4DS on your behalf that your place of address for the purposes of serving notices in respect of Your 4DS Ordinary Shares is the address specified by Fitzroy in the notification;

(xii) represented and warranted to Fitzroy that, unless you have notified it in accordance with Section 3(e) of this Annexure A, Your 4DS Ordinary Shares do not consist of a separate parcel of shares;

- (xiii) agreed to indemnify Fitzroy in respect of any claim or action against it or any loss, damage or liability whatsoever incurred by it as a result of you not producing your share certificate or in consequence of the transfer of Your 4DS Ordinary Shares to Fitzroy being registered by 4DS without production of your share certificate for Your 4DS Ordinary Shares;
- (xiv) agreed, subject to the conditions of this Offer in Section 8(a) of this Annexure A being fulfilled or freed, to execute all such documents, transfers and assurances, and do all such acts, matters and things that Fitzroy may consider necessary or desirable to convey Your 4DS Ordinary Shares registered in your name and Rights to Fitzroy; and
- (xv) if you are located in the United States, certified to Fitzroy that:
 - (A) you are acquiring the Fitzroy Consideration Securities for your own account with the present intention of holding the Fitzroy Consideration Securities for the purpose of investment and not with the intention of selling the Fitzroy Consideration Securities in a public distribution in violation of the U.S. federal securities laws or any applicable state securities laws;
 - (B) you understand that:
 - (1) no U.S. federal or state securities commission has recommended nor considered the merits of any investment in Fitzroy Consideration Securities;
 - (2) the Offer and the Fitzroy Consideration Securities have not been registered under the U.S. Securities Act of 1933 (the **Securities Act**) or the securities laws of any state; and
 - (3) the Fitzroy Consideration Securities will constitute "restricted securities" with the meaning of Rule 144 under the Securities Act and, as such, cannot be transferred or resold unless they are (i) registered under the Securities Act; (ii) transferred or sold in a transaction exempt from registration under the Securities Act and applicable state securities laws; or (iii) sold outside the United States in compliance with Regulation S under the Securities Act, including in regular way transactions on ASX if neither you nor any person acting on your behalf knows, or has reason to know, that the sale has been prearranged with a person in the United States;
 - (C) you:
 - (1) are knowledgeable in relation to the business of the Company and capable of evaluating the merits and risks of an investment in the Fitzroy Consideration Securities, including income tax consequences of acquiring, owning and disposing of the Fitzroy Consideration Securities;
 - (2) have been afforded access to information about the Shares, the Company's financial condition, results of operations, business, property, management and prospects sufficient to enable him to invest in the Fitzroy Consideration Securities (including reviewing this Bidder's Statement and other information that the Company has filed with ASX);
 - (3) understand that the acquisition of Fitzroy Consideration Securities involves financial risks;

- (4) are able to bear the economic risk of an investment in Fitzroy Consideration Securities for an indefinite period of time; and
- (5) are not subscribing for Fitzroy Consideration Securities as a result of any "general solicitation" or "general advertising" (within the meaning of Rule 502(c) under the Securities Act).
- (d) The representations, warranties, undertakings and authorities referred to in this Section 6 of this Annexure A will remain in force after you receive the consideration for Your 4DS Ordinary Shares and after Fitzroy becomes registered as the holder of them.

7. **Payment of Consideration**

- (a) Subject to the terms of this Offer and the Corporations Act, Fitzroy will provide the consideration for Your 4DS Ordinary Shares on or before the earlier of:
 - (i) one month after the date of your acceptance or, if this Offer is subject to a defeating condition when you accept this Offer, within one month after this Offer becomes Unconditional; and
 - (ii) 21 days after the end of the Offer Period.
- (b) Under no circumstances will interest be paid on the consideration to which you are entitled to under the Offer, regardless of any delay in providing the consideration or any extension of the Offer.
- (c) Where the Ordinary Share Acceptance Form requires an additional document to be given with your acceptance (such as a power of attorney):
 - (i) if that document is given with your acceptance, Fitzroy will provide the consideration in accordance with Section 7(a) of this Annexure A;
 - (ii) if that document is given after your acceptance and before the end of the Offer Period while this Offer is subject to a Condition, Fitzroy will provide the consideration due to you on or before the earlier of:
 - (A) one month after this Offer becomes Unconditional; or
 - (B) 21 days after the end of the Offer Period;
 - (iii) if that document is given after your acceptance and before the end of the Offer Period while this Offer is not subject to a Condition, Fitzroy will provide the consideration due to you on or before the earlier of:
 - (A) one month after that document is given to Fitzroy; and
 - (B) 21 days after the end of the Offer Period; and
 - (iv) if that document is given after the end of the Offer Period, and the Offer is not subject to a Condition, Fitzroy will provide the consideration within 21 days after that document is given. However, if at the time the document is given, the Offer is still subject to a Condition that relates only to the happening of an event or circumstance referred to in section 652C(1) or (2) of the Corporations Act in relation to 4DS, Fitzroy will provide the consideration due to you within 21 days after the Offer becomes Unconditional.
- (d) The obligation of Fitzroy to allot and issue any Fitzroy Shares to which you are entitled under the Offer will be satisfied by:
 - (i) entering your name on the register of members of Fitzroy; and
 - (ii) dispatching or procuring the dispatch to you by pre-paid post to your last recorded address on the most recent copy of 4DS's register of members after the Offer goes Unconditional, a uncertificated holding statement in your name. If Your 4DS

Ordinary Shares are held in a joint name, an uncertificated holding statement will be issued in the name of the joint holders, and forwarded to the last recorded address on the most recent copy of 4DS's register of members.

- (e) If, at the time you accept the Offer, any of the following:
- (i) *Banking (Foreign Exchange) Regulations 1959* (Cth);
 - (ii) *Charter of the United Nations (Dealing with Assets) Regulations 2008* (Cth);
 - (iii) *Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Regulations 2008* (Cth);
 - (iv) *Charter of the United Nations (Sanctions - Iraq) Regulations 2008* (Cth); or
 - (v) any other law of Australia,

require that an authority, clearance or approval of the Reserve Bank of Australia, the Australian Taxation Office or any other government authority be obtained before you receive any consideration for Your 4DS Ordinary Shares, or would make it unlawful for Fitzroy to provide any consideration to you for Your 4DS Ordinary Shares, you will not be entitled to receive any consideration for Your 4DS Ordinary Shares until all requisite authorities, clearances or approvals have been received by Fitzroy. In such circumstances, for tax purposes, acceptance of the Offer should not create in (or transfer to) you a right to receive any consideration from Fitzroy until the required regulatory approval is obtained.

8. Conditions of this Offer

- (a) Subject to Sections 8(b) and 8(c) of this Annexure A, the Offer and any contract that results from acceptance of the Offer is subject to the fulfilment of the following conditions:
- (i) **Approval of Essential Resolutions**

Fitzroy Shareholders approve the Essential Resolutions by the requisite majorities in accordance with the Corporations Act, the Listing Rules and the constitution of Fitzroy before the end of the Offer Period.
 - (ii) **Prospectus Offer**

The Prospectus Offer closes and, as at the close of the Prospectus Offer, Fitzroy receives or becomes entitled to receive, in immediately available funds, gross proceeds of no less than \$2,250,000 (before the costs of the Prospectus Offer) as a result of subscriptions made under the Prospectus Offer.
 - (iii) **Minimum acceptance**

On or before the end of the Offer Period:

 - (A) Fitzroy has a relevant interest in more than 90% (by number) of the sum of the 4DS Ordinary Shares on issue and is entitled to proceed to compulsory acquisition of all outstanding 4DS Ordinary Shares under the Corporations Act; and
 - (B) Fitzroy has a relevant interest in more than 90% (by number) of the sum of the 4DS Preference Shares on issue and is entitled to proceed to compulsory acquisition of all outstanding 4DS Preference Shares under the Corporations Act.
 - (iv) **ASX consent to re-quotation**

Fitzroy receives from ASX written confirmation that ASX will terminate the suspension of Fitzroy Ordinary Shares from quotation, subject to the satisfaction of such terms and conditions (if any) as are prescribed by ASX or the Listing Rules and such conditions being capable of being satisfied.

- (v) Private Option Offers
- All 4DS Optionholders accepting a Private Option Offer in relation to their 4DS Options.
- (vi) Private A Class Offers
- All 4DS A Class Shareholders accepting a Private A Class Share Offer in relation to their 4DS A Class Shares.
- (vii) Regulatory approvals
- Before the end of the Offer Period, all approvals or consents that are required by law, by any public authority, or by any other third party as are necessary to permit:
- (A) the Offers to be lawfully made to and accepted by the Shareholders;
 - (B) the transactions contemplated by this Bidder's Statement to be completed; and
 - (C) 4DS to be in material compliance with each of its and its subsidiaries' contracts, permits, licences and other agreements,
- are granted, given, made or obtained on an unconditional basis, remain in full force and effect in all respects, and do not become subject to any notice, intimation or indication of intention to revoke, suspend, restrict, modify or not renew the same.
- (viii) No regulatory action and consents
- Between the Announcement Date and the end of the Offer Period (each inclusive):
- (A) there is not in effect any preliminary or final decision, order or decree issued by any Government Agency;
 - (B) no action or investigation is announced, commenced or threatened by any Government Agency; and
 - (C) no application is made to any Government Agency (other than by Fitzroy or any associate of Fitzroy),
- in consequence of or in connection with the Offers (other than an application to, or a decision or order of, ASIC or the Takeovers Panel in exercise of the powers and discretions conferred by the Corporations Act) which restrains, prohibits or impedes, or threatens to restrain, prohibit or impede, or materially impact upon, the making of the Offers and the completion of any transaction contemplated by the Bidder's Statement or which requires the divestiture by Fitzroy of any 4DS Shares or any material assets of 4DS or any subsidiary of 4DS.
- (ix) Material Adverse Change
- Between the Announcement Date and the end of the Offer Period (each inclusive), no 4DS Material Adverse Change occurs.
- (x) Capital Expenditures
- Between the Announcement Date and the end of the Offer Period (each inclusive), 4DS does not incur or commit to incur an amount of capital expenditure in excess of \$50,000 other than:
- (A) capital expenditure incurred on existing projects in which 4DS has an interest as at the Announcement Date; or
 - (B) capital expenditure in the day to day operating activities of the business of 4DS and its subsidiaries conducted in the same manner as before the Announcement Date.

- (xi) No litigation on foot or pending
- Between the Announcement Date and the end of the Offer Period (each inclusive), no litigation against 4DS which may reasonably result in a judgment of \$50,000 or more is commenced, is threatened to be commenced, is announced, or is made known to Fitzroy (whether or not becoming public) or 4DS, other than that which is in the public domain as at the Announcement Date.
- (xii) Equal Access
- Between the Announcement Date and the end of the Offer Period (each inclusive), 4DS promptly, and in any event within two Business Days, providing to Fitzroy all information that is not generally available (within the meaning of the Corporations Act) relating to 4DS or any of its subsidiaries, or their respective assets, liabilities or operations, that has been provided by 4DS or any of its directors, officers, agents or representatives to any person other than Fitzroy, other than in the ordinary course of ordinary business, for the purposes of soliciting, encouraging or facilitating any proposal with respect to:
- (A) a takeover bid for, or scheme of arrangement proposed by, 4DS, under the Corporations Act;
 - (B) the acquisition by that person or an associate of substantially all the assets and operations of 4DS; or
 - (C) any transaction having a similar economic effect.
- (xiii) No prescribed occurrences
- Between the Announcement Date and the date three Business Days after the end of the Offer Period (each inclusive), no Prescribed Occurrence occurs.
- (xiv) No distributions
- Between the Announcement Date and the end of the Offer Period (each inclusive), 4DS does not announce, make, declare or pay any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie).
- (xv) No redemption of Preference Shares
- Between the Announcement Date and the end of the Offer Period (each inclusive), no 4DS Preference Shareholder seeks to redeem any 4DS Preference Shares they hold.
- (xvi) Escrow
- Each 4DS Securityholder enters into such form of restriction agreement in respect of the Fitzroy Securities issued to them:
- (A) on completion of the Takeover Bids;
 - (B) under the Private Option Offers; or
 - (C) under the Private A Class Share Offers,
- (as applicable) (including any Fitzroy Ordinary Shares issued upon satisfaction of the performance hurdle under the terms of the Class 1 Performance Shares) as ASX may require.
- (xvii) Joint Development Agreement
- Between the Announcement Date and the end of the Offer Period (each inclusive) the Joint Development Agreement remains on foot and has not been terminated for any reason.

(xviii) Preference Share Offer

Fitzroy obtaining a relevant interest in more than 90% (by number) of the sum of the 4DS Preference Shares on issue on or before the end of the Offer Period.

- (b) Each condition in Section 8(a) of this Annexure A is a separate, several and distinct condition, operates as a condition subsequent and is for the benefit of Fitzroy alone and may only be relied upon by Fitzroy.
- (c) All the conditions in Section 8(a) of this Annexure A are conditions subsequent. The non-fulfilment of any condition subsequent does not, until the end of the Offer Period (or in the case of any Condition that relates only to the happening of an event or circumstance referred to in Section 652C(1) or (2) of the Corporations Act, the end of the third business day after the end of the Offer Period), prevent a contract to sell Your 4DS Ordinary Shares from arising, but entitles Fitzroy by written notice to you, to rescind the contract resulting from your acceptance of this Offer.

9. **Freeing the Offer of Conditions**

- (a) Subject to Section 9(b) of this Annexure A, Fitzroy may free this Offer, and any contract resulting from its acceptance, from all or any of the Conditions in Section 8(a) of this Annexure A at its sole and absolute discretion by giving notice to 4DS declaring the Offer to be free from the relevant conditions specified in accordance with Section 650F of the Corporations Act.
- (b) Fitzroy may only waive the Essential Conditions with the prior written consent of 4DS (such consent not to be unreasonably withheld or delayed).
- (c) If, at the end of the Offer Period (or in the case of any Condition that relates only to the happening of an event or circumstance referred to in Section 652C(1) or (2) of the Corporations Act, the end of the third business day after the end of the Offer Period) the Conditions in Section 8(a) of this Annexure A have not been fulfilled and Fitzroy has not declared the Offer (or it has not become) free from those Conditions, all contracts resulting from the acceptance of the Offer will be automatically void.
- (d) Subject to the provisions of the Corporations Act, Fitzroy alone will be entitled to the benefit of the Conditions in Section 8(a) of this Annexure A and any breach or non-fulfilment thereof may be relied upon only by Fitzroy.

10. **Notice of Status of Conditions**

The date for giving the notice on the status of the Conditions required by Section 630(1) of the Corporations Act is 12 November 2015, subject to extension in accordance with 630(2) if the Offer Period is extended.

11. **Quotation**

- (a) An application will be made within 7 days after the start of the Bid Period to ASX for the granting of quotation of the Fitzroy Shares to be issued in accordance with the Offer. However, quotation is not granted automatically on application.
- (b) Pursuant to the Corporations Act, this Offer is subject to a condition that quotation is made for quotation of the Fitzroy Shares to be issued pursuant to the Offer in accordance with Section 11(a) of this Annexure A and permission for quotation by ASX (as the circumstances require) of the Fitzroy Shares to be issued pursuant to the Offer being granted no later than 7 days after the end of the Bid Period.

12. **Withdrawal of Offer**

Fitzroy may withdraw this Offer with the consent in writing of ASIC (which consent may be given subject to such conditions, if any, as are imposed by ASIC). If ASIC gives such consent, Fitzroy will give notice of the withdrawal to ASX and to 4DS and comply with any other conditions imposed by ASIC.

13. **Variation**

Fitzroy may vary this Offer in accordance with the Corporations Act at its sole and absolute discretion.

14. **Stamp Duty or Other Costs**

- (a) All costs and expenses of the preparation, dispatch and circulation of this Offer and any stamp duty payable in respect of the transfers will be paid by Fitzroy.
- (b) As long as Your 4DS Ordinary Shares are registered in your name and you deliver them directly to Fitzroy in accordance with the terms of this Offer, you will not incur any brokerage in connection with your acceptance of this Offer.

15. **Governing Law**

This Offer and any contract that results from your acceptance of this Offer is governed by the laws in force in Western Australia.

16. **Date of Offer**

This Offer is dated 8 October 2015.

Annexure B – Terms of Preference Share Offer

1. General Terms

- (a) Fitzroy offers to acquire all of Your 4DS Preference Shares, together with all Rights attached to them, on the following terms and conditions set out in this Offer.
- (b) The Preference Share Offer Consideration being offered by Fitzroy for the acquisition of all of Your 4DS Preference Shares is:
 - (i) 110.4400015 Fitzroy Ordinary Shares; and
 - (ii) 20.5905086 Fitzroy Class 1 Performance Shares,for every one 4DS Preference Share you own, subject to the terms and conditions set out in this Offer. Fractional entitlements, if any will be rounded to the nearest whole number.
- (c) The rights and obligations of the Fitzroy Shares to be issued under the Offer are summarised in Sections 4.6 and 4.7 of the Bidder's Statement.
- (d) The Offer is dated 8 October 2015.

2. Offer Period

- (a) Unless withdrawn, this Offer will remain open for acceptance during the period commencing on the date of this Offer (being 8 October 2015) and ending at 5:00 pm (WST) on the later of:
 - (i) 19 November 2015; or
 - (ii) any date to which the Offer Period is extended, in accordance with the Corporations Act.
- (b) Fitzroy reserves the right, exercisable in its sole discretion, to extend the Offer Period in accordance with the Corporations Act.
- (c) If, within the last 7 days of the Offer Period, either of the following events occurs:
 - (i) the Offer is varied to improve the consideration offered; or
 - (ii) Fitzroy's voting power in 4DS increases to more than 50%,then the Offer Period will automatically be extended so that it ends 14 days after the relevant events in accordance with Section 624(2) of the Corporations Act.

3. Who May Accept

- (a) An Offer in this form and bearing the same date is being made to each person registered as a holder of 4DS Preference Shares on 4DS's register of members at 5.00pm (WST) on the Record Date.
- (b) The Offer also extends to each person who, during the period from the Record Date until the end of the Offer Period, becomes registered as a holder of 4DS Preference Shares due to the conversion of, or exercise of rights conferred by 4DS Options that are on issue at the Record Date and any person who becomes registered as the holder of Your 4DS Preference Shares during the Offer Period.
- (c) A person who:
 - (i) is able during the Offer Period to give good title to a parcel of 4DS Preference Shares; and
 - (ii) has not already accepted this Offer which relates to those 4DS Preference Shares,may accept as if an Offer from Fitzroy on terms identical with this Offer had been made to that person in relation to those 4DS Preference Shares.

- (d) If, at the time the Offer is made to you, or at any time during the Offer Period, another person is registered as the holder of some or all of Your 4DS Preference Shares, then:
 - (i) a corresponding offer on the same terms and conditions as this Offer will be deemed to have been made to that other person in respect of those 4DS Preference Shares; and
 - (ii) a corresponding offer on the same terms and conditions as this Offer will be deemed to have been made to you in respect of any other 4DS Preference Shares you hold to which the Offer relates; and
 - (iii) this Offer will be deemed to have been withdrawn immediately at that time.
- (e) If at any time during the Offer Period you are registered as the holder of one or more parcels of 4DS Preference Shares as trustee or nominee for, or otherwise on account of, another person, you may accept as if a separate and distinct offer on the same terms and conditions as this Offer has been made in relation to each of those parcels and any parcel you hold in your own right. To validly accept the Offer for each distinct parcel, you must comply with the procedure in Section 653B(3) of the Corporations Act. If, for the purposes of complying with that procedure, you require additional copies of this Bidder's Statement and/or the Acceptance Form, please call Fitzroy on +61 8 9481 7111 to request those additional copies.
- (f) This Offer is not registered in any jurisdiction outside Australia (unless an applicable foreign law treats it as registered as a result of the Bidder's Statement being lodged with ASIC). The Offer is not registered in New Zealand, but is being made in New Zealand pursuant to the Securities Act (Overseas Companies) Exemption Notice 2013. It is your sole responsibility to satisfy yourself that you are permitted by any foreign law applicable to you to accept this Offer and to comply with any other necessary formality and to obtain any necessary governmental or other consents.
- (g) If Your 4DS Preference Shares are registered in the name of a broker, investment dealer, bank, trust company or other nominee you should contact that nominee for assistance in accepting this Offer.

4. **How to Accept this Offer**

- (a) Subject to Section 3(e) of this Annexure B, you may only accept this Offer in respect of all (and not a lesser number) of Your 4DS Preference Shares. For example, if you have 10,000 4DS Preference Shares and you wish to accept the Offer, you may only accept this Offer in respect of 10,000 4DS Preference Shares.
- (b) You may accept this Offer at any time during the Offer Period.
- (c) To accept this Offer for 4DS Preference Shares held in your name on 4DS's register, you must:
 - (i) complete and sign the Acceptance Form in accordance with the terms of this Offer and the instructions on the Acceptance Form; and
 - (ii) ensure that the Acceptance Form (including any documents required by the terms of this Offer and the instructions on the Acceptance Form) is received before the end of the Offer Period, at the address shown on the Acceptance Form.

Acceptance Form and Other Documents

- (d) The Preference Share Acceptance Form forms part of the Offer. The requirements on the Preference Share Acceptance Form must be observed in accepting the Offer.
- (e) For your acceptance to be valid you must ensure that your Preference Share Acceptance Form (including any documents required by the terms of this Offer and the instructions on the Preference Share Acceptance Form) are posted or delivered in sufficient time for it to be received by Fitzroy at the address shown on the Preference Share Acceptance Form before the end of the Offer Period.

- (f) The postage and transmission of the Acceptance Form and other documents is at your own risk.
- (g) When accepting the Offer, you must also forward for inspection:
 - (i) if the Preference Share Acceptance Form is executed by an attorney, a certified copy of the power of attorney; and
 - (ii) if the Preference Share Acceptance Form is executed by the executor of a will or the administrator of the estate of a deceased 4DS Preference Shareholder, the relevant grant of probate or letters of administration.
- (h) When accepting the Offer, you must also provide a duly executed copy of the restriction agreement (which will be provided to you by the Company) in respect of some or all of your Fitzroy Consideration Securities as required by ASX.

5. **Validity of Acceptances**

- (a) Subject to this Section 5 of this Annexure B, your acceptance of the Offer will not be valid unless it is made in accordance with the procedures set out in Section 4 of this Annexure B.
- (b) Fitzroy will determine, in its sole discretion, all questions as to the form of documents, eligibility to accept the Offer and time of receipt of an acceptance of the Offer. Fitzroy is not required to communicate with you prior to or after making this determination. The determination of Fitzroy will be final and binding on all parties.
- (c) Notwithstanding Section 4 of this Annexure B, Fitzroy may at any time in its sole discretion:
 - (i) deem any Preference Share Acceptance Form it receives to be a valid acceptance notwithstanding that one or more of the other requirements for a valid acceptance have not been complied with and without further communication to you; and
 - (ii) where you have satisfied the requirements for acceptance in respect of only some of your 4DS Preference Shares, Fitzroy may, in its sole discretion, regard the Offer to be accepted in respect of those of Your 4DS Preference Shares but not the remainder.
- (d) In respect of any part of an acceptance treated by it as valid, Fitzroy will provide you with the relevant consideration in accordance with Section 1 of this Annexure B, and the exercise of Fitzroy's rights under Section 5(c) of this Annexure B will be conclusive and only evidenced by its so doing. The payment of consideration in accordance with the Offer may be delayed until any irregularity has been resolved or waived and any other documents required to procure registration have been received by Fitzroy.
- (e) This Section is not a condition of this Offer.

6. **The Effect of Acceptance**

- (a) Once you have accepted this Offer, you will be unable to revoke your acceptance and the contract resulting from your acceptance will be binding on you. In addition, you will be unable to withdraw your acceptance of the Offer or otherwise dispose of Your 4DS Preference Shares, except as follows:
 - (i) if, by the times specified in Section 6(b) of this Annexure B, the Conditions in Section 8(a) of this Annexure B have not all been fulfilled or waived, the Offer will automatically terminate and you will retain Your 4DS Preference Shares; or
 - (ii) if the Offer is varied in accordance with the Corporations Act in a way that postpones for more than one month the time when Fitzroy has to meet its obligations under the Offer, and, at the time, the Offer is subject to one or more of the Conditions in Section 8(a) of this Annexure B, you may be able to withdraw your acceptance in accordance with Section 650E of the Corporations Act.

- (b) The relevant times for the purposes of Section 6(a) of this Annexure B are:
- (i) in relation to the Condition that relates only to the happening of an event or circumstance referred to in Section 652C(1) or (2) of the Corporations Act in relation to 4DS, the end of the third business day after the end of the Offer Period; and
 - (ii) in relation to all other conditions in Section 8(a) of this Annexure B, the end of the Offer Period.
- (c) By following the procedures described in Section 4 of this Annexure B, you will be deemed to have:
- (i) accepted this Offer (and any variation to it) in respect of Your 4DS Preference Shares and agreed to sell all of Your 4DS Preference Shares to Fitzroy, regardless of the number of 4DS Preference Shares specified in the Preference Share Acceptance Form;
 - (ii) agreed to the terms of the Offer and, subject to the Conditions contained in Section 8(a) of this Annexure B being fulfilled or waived, agreed to transfer to Fitzroy all of Your 4DS Preference Shares and all of the Rights attached to those 4DS Preference Shares in accordance with the terms of the Offer;
 - (iii) agreed to accept the consideration being offered by Fitzroy and have authorised Fitzroy to place your name on its register of shareholders in respect of Fitzroy Shares offered by Fitzroy as consideration, and agreed to be bound by the Constitution of Fitzroy;
 - (iv) irrevocably authorised Fitzroy (and any director, secretary, nominee or agent of Fitzroy) to alter the Preference Share Acceptance Form on your behalf by completing any blanks and correcting any errors in, or omissions from, the Preference Share Acceptance Form as may be necessary:
 - (A) to make the Preference Share Acceptance Form an effective acceptance of this Offer; and/or
 - (B) to enable registration of the transfer to Fitzroy of Your 4DS Preference Shares;
 - (v) irrevocably authorised and directed 4DS to pay to Fitzroy or to account to Fitzroy for all Rights which are declared, paid or which arise or accrue after the date of this Offer in respect of Your 4DS Preference Shares (subject to Fitzroy accounting to you for any such Rights received by it if your acceptance of this Offer is validly withdrawn pursuant to Section 650E of the Corporations Act or the contract resulting from that acceptance becomes void);
 - (vi) represented and warranted to Fitzroy that:
 - (A) Fitzroy will acquire good title to and beneficial ownership of all of Your 4DS Preference Shares free from all mortgages, charges, liens, encumbrances (whether legal or equitable) and other third party interests of any kind and free from restrictions on transfer of any nature (whether legal or otherwise);
 - (B) you have paid 4DS all amounts which are due in respect of Your 4DS Preference Shares;
 - (C) all of Your 4DS Preference Shares are fully paid; and
 - (D) you have full power and capacity to accept the Offer and to sell and transfer the legal and beneficial ownership of Your 4DS Preference Shares (together with all Rights attached to them) to Fitzroy;

- (vii) agreed to accept the Fitzroy Shares to which you become entitled by accepting this Offer subject to the Constitution and the terms of issue of the Fitzroy Shares and to have authorised Fitzroy to place your name on its register of shareholders as the holder of the Fitzroy Shares issued to you under the Offer;
- (viii) represented and warranted to Fitzroy that the making by Fitzroy to you, and your acceptance, of this Offer is lawful under any Foreign Law which applies to you, to the making of this Offer, and to your acceptance of this Offer;
- (ix) with effect from the later of acceptance of the Offer and the date that any contract resulting from that acceptance becomes, or is declared, Unconditional, irrevocably appointed Fitzroy and each of its directors, secretaries and other officers from time to time severally as your agent and true and lawful attorney, with power to do all things which you could lawfully do concerning Your 4DS Preference Shares or in exercise of any right or power derived from the holding of Your 4DS Preference Shares including, without limitation:
 - (A) attend and vote in respect of Your 4DS Preference Shares at any and all meetings of 4DS;
 - (B) requisition or join with other holders of 4DS Preference Shares in requisitioning and/or convening a meeting of the members of 4DS;
 - (C) demand a poll for any vote to be taken at any meeting of 4DS Preference Shareholders;
 - (D) propose or second any resolutions to be considered at any, and all meetings of 4DS Preference Shareholders;
 - (E) execute all forms, transfers, assignments, notices, instruments (including instruments appointing a director of Fitzroy as a proxy in respect of all or any of Your 4DS Preference Shares and a transfer form for Your 4DS Preference Shares), proxies, consents, agreements and resolutions relating to Your 4DS Preference Shares;
 - (F) request 4DS to register in the name of Fitzroy or its nominee Your 4DS Preference Shares which you hold on any register of 4DS; and
 - (G) do all things incidental or ancillary to the foregoing,

and to have agreed that in exercising the powers conferred by that power of attorney, the attorney shall be entitled to act in the interests of Fitzroy as the beneficial owner and intended registered holder of Your 4DS Preference Shares in respect of which you have accepted this Offer and to have further agreed to do all such acts, matters and things that Fitzroy may require to give effect to the matters the subject of this paragraph (including the execution of a written form of proxy to the same effect as this paragraph which complies in all respects with the requirements of the Constitution of 4DS) if requested by Fitzroy;
- (x) with effect from the later of acceptance of the Offer and the date that any contract resulting from that acceptance becomes, or is declared Unconditional, agreed not to attend or vote in person, by proxy, or otherwise at any general meeting of 4DS or at any Court convened meeting of 4DS or to exercise (or purport to exercise) in person, by proxy or otherwise, any of the powers conferred on Fitzroy and the directors, secretaries and other officers of Fitzroy by Section 6(c)(ix) of this Annexure B;
- (xi) irrevocably authorised Fitzroy to notify 4DS on your behalf that your place of address for the purposes of serving notices in respect of Your 4DS Preference Shares is the address specified by Fitzroy in the notification;

- (xii) represented and warranted to Fitzroy that, unless you have notified it in accordance with Section 3(e) of this Annexure B, Your 4DS Preference Shares do not consist of a separate parcel of shares;
- (xiii) agreed to indemnify Fitzroy in respect of any claim or action against it or any loss, damage or liability whatsoever incurred by it as a result of you not producing your share certificate or in consequence of the transfer of Your 4DS Preference Shares to Fitzroy being registered by 4DS without production of your share certificate for Your 4DS Preference Shares; and
- (xiv) agreed, subject to the conditions of this Offer in Section 8(a) of this Annexure B being fulfilled or freed, to execute all such documents, transfers and assurances, and do all such acts, matters and things that Fitzroy may consider necessary or desirable to convey Your 4DS Preference Shares registered in your name and Rights to Fitzroy; and
- (xv) if you are located in the United States, certified to Fitzroy that:
 - (A) you are acquiring the Fitzroy Consideration Securities for your own account with the present intention of holding the Fitzroy Consideration Securities for the purpose of investment and not with the intention of selling the Fitzroy Consideration Securities in a public distribution in violation of the U.S. federal securities laws or any applicable state securities laws;
 - (B) you understand that:
 - (1) no U.S. federal or state securities commission has recommended nor considered the merits of any investment in Fitzroy Consideration Securities;
 - (2) the Offer and the Fitzroy Consideration Securities have not been registered under the U.S. Securities Act of 1933 (the **Securities Act**) or the securities laws of any state; and
 - (3) the Fitzroy Consideration Securities will constitute "restricted securities" with the meaning of Rule 144 under the Securities Act and, as such, cannot be transferred or resold unless they are (i) registered under the Securities Act; (ii) transferred or sold in a transaction exempt from registration under the Securities Act and applicable state securities laws; or (iii) sold outside the United States in compliance with Regulation S under the Securities Act, including in regular way transactions on ASX if neither you nor any person acting on your behalf knows, or has reason to know, that the sale has been prearranged with a person in the United States;
 - (C) you:
 - (1) are knowledgeable in relation to the business of the Company and capable of evaluating the merits and risks of an investment in the Fitzroy Consideration Securities, including income tax consequences of acquiring, owning and disposing of the Fitzroy Consideration Securities;
 - (2) have been afforded access to information about the Shares, the Company's financial condition, results of operations, business, property, management and prospects sufficient to enable him to invest in the Fitzroy Consideration Securities

(including reviewing this Bidder's Statement and other information that the Company has filed with ASX);

- (3) understand that the acquisition of Fitzroy Consideration Securities involves financial risks;
 - (4) are able to bear the economic risk of an investment in Fitzroy Consideration Securities for an indefinite period of time; and
 - (5) are not subscribing for Fitzroy Consideration Securities as a result of any "general solicitation" or "general advertising" (within the meaning of Rule 502(c) under the Securities Act).
- (d) The representations, warranties, undertakings and authorities referred to in this Section 6 of this Annexure B will remain in force after you receive the consideration for Your 4DS Preference Shares and after Fitzroy becomes registered as the holder of them.

7. Payment of Consideration

- (a) Subject to the terms of this Offer and the Corporations Act, Fitzroy will provide the consideration for Your 4DS Preference Shares on or before the earlier of:
 - (i) one month after the date of your acceptance or, if this Offer is subject to a defeating condition when you accept this Offer, within one month after this Offer becomes Unconditional; and
 - (ii) 21 days after the end of the Offer Period.
- (b) Under no circumstances will interest be paid on the consideration to which you are entitled to under the Offer, regardless of any delay in providing the consideration or any extension of the Offer.
- (c) Where the Preference Share Acceptance Form requires an additional document to be given with your acceptance (such as a power of attorney):
 - (i) if that document is given with your acceptance, Fitzroy will provide the consideration in accordance with Section 7(a) of this Annexure B;
 - (ii) if that document is given after your acceptance and before the end of the Offer Period while this Offer is subject to a Condition, Fitzroy will provide the consideration due to you on or before the earlier of:
 - (A) one month after this Offer becomes Unconditional; or
 - (B) 21 days after the end of the Offer Period;
 - (iii) if that document is given after your acceptance and before the end of the Offer Period while this Offer is not subject to a Condition, Fitzroy will provide the consideration due to you on or before the earlier of:
 - (A) one month after that document is given to Fitzroy; and
 - (B) 21 days after the end of the Offer Period; and
 - (iv) if that document is given after the end of the Offer Period, and the Offer is not subject to a Condition, Fitzroy will provide the consideration within 21 days after that document is given. However, if at the time the document is given, the Offer is still subject to a Condition that relates only to the happening of an event or circumstance referred to in section 652C(1) or (2) of the Corporations Act in relation to 4DS, Fitzroy will provide the consideration due to you within 21 days after the Offer becomes Unconditional.

- (d) The obligation of Fitzroy to allot and issue any Fitzroy Shares to which you are entitled under the Offer will be satisfied by:
- (i) entering your name on the register of members of Fitzroy; and
 - (ii) dispatching or procuring the dispatch to you by pre-paid post to your last recorded address on the most recent copy of 4DS's register of members after the Offer goes Unconditional, a uncertificated holding statement in your name. If Your 4DS Preference Shares are held in a joint name, an uncertificated holding statement will be issued in the name of the joint holders, and forwarded to the last recorded address on the most recent copy of 4DS's register of members.
- (e) If, at the time you accept the Offer, any of the following:
- (i) *Banking (Foreign Exchange) Regulations 1959 (Cth);*
 - (ii) *Charter of the United Nations (Dealing with Assets) Regulations 2008 (Cth);*
 - (iii) *Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Regulations 2008 (Cth);*
 - (iv) *Charter of the United Nations (Sanctions - Iraq) Regulations 2008 (Cth);* or
 - (v) any other law of Australia,

require that an authority, clearance or approval of the Reserve Bank of Australia, the Australian Taxation Office or any other government authority be obtained before you receive any consideration for Your 4DS Preference Shares, or would make it unlawful for Fitzroy to provide any consideration to you for Your 4DS Preference Shares, you will not be entitled to receive any consideration for Your 4DS Preference Shares until all requisite authorities, clearances or approvals have been received by Fitzroy. In such circumstances, for tax purposes, acceptance of the Offer should not create in (or transfer to) you a right to receive any consideration from Fitzroy until the required regulatory approval is obtained.

8. Conditions of this Offer

- (a) Subject to Sections 8(b) and 8(c) of this Annexure B, the Offer and any contract that results from acceptance of the Offer is subject to the fulfilment of the following conditions:
- (i) **Approval of Essential Resolutions**
Fitzroy Shareholders approve the Essential Resolutions by the requisite majorities in accordance with the Corporations Act, the Listing Rules and the constitution of Fitzroy before the end of the Offer Period.
 - (ii) **Prospectus Offer**
The Prospectus Offer closes and, as at the close of the Prospectus Offer, Fitzroy receives or becomes entitled to receive, in immediately available funds, gross proceeds of no less than \$2,250,000 (before the costs of the Prospectus Offer) as a result of subscriptions made under the Prospectus Offer.
 - (iii) **Minimum acceptance**
On or before the end of the Offer Period:
 - (A) Fitzroy has a relevant interest in more than 90% (by number) of the sum of the 4DS Preference Shares on issue and is entitled to proceed to compulsory acquisition of all outstanding 4DS Preference Shares under the Corporations Act; and
 - (B) Fitzroy has a relevant interest in more than 90% (by number) of the sum of the 4DS Preference Shares on issue and is entitled to proceed to compulsory acquisition of all outstanding 4DS Preference Shares under the Corporations Act.

- (iv) ASX consent to re-quotation
- Fitzroy receives from ASX written confirmation that ASX will terminate the suspension of Fitzroy Ordinary Shares from quotation, subject to the satisfaction of such terms and conditions (if any) as are prescribed by ASX or the Listing Rules and such conditions being capable of being satisfied.
- (v) Private Option Offers
- All 4DS Optionholders accepting a Private Option Offer in relation to their 4DS Options.
- (vi) Private A Class Offers
- All 4DS A Class Shareholders accepting a Private A Class Share Offer in relation to their 4DS A Class Shares.
- (vii) Regulatory approvals
- Before the end of the Offer Period, all approvals or consents that are required by law, by any public authority, or by any other third party as are necessary to permit:
- (A) the Offers to be lawfully made to and accepted by the Shareholders;
 - (B) the transactions contemplated by this Bidder's Statement to be completed; and
 - (C) 4DS to be in material compliance with each of its and its subsidiaries' contracts, permits, licences and other agreements,
- are granted, given, made or obtained on an unconditional basis, remain in full force and effect in all respects, and do not become subject to any notice, intimation or indication of intention to revoke, suspend, restrict, modify or not renew the same.
- (viii) No regulatory action and consents
- Between the Announcement Date and the end of the Offer Period (each inclusive):
- (A) there is not in effect any preliminary or final decision, order or decree issued by any Government Agency;
 - (B) no action or investigation is announced, commenced or threatened by any Government Agency; and
 - (C) no application is made to any Government Agency (other than by Fitzroy or any associate of Fitzroy),
- in consequence of or in connection with the Offers (other than an application to, or a decision or order of, ASIC or the Takeovers Panel in exercise of the powers and discretions conferred by the Corporations Act) which restrains, prohibits or impedes, or threatens to restrain, prohibit or impede, or materially impact upon, the making of the Offers and the completion of any transaction contemplated by the Bidder's Statement or which requires the divestiture by Fitzroy of any 4DS Shares or any material assets of 4DS or any subsidiary of 4DS.
- (ix) Material Adverse Change
- Between the Announcement Date and the end of the Offer Period (each inclusive), no 4DS Material Adverse Change occurs.

- (x) **Capital Expenditures**
- Between the Announcement Date and the end of the Offer Period (each inclusive), 4DS does not incur or commit to incur an amount of capital expenditure in excess of \$50,000 other than:
- (A) capital expenditure incurred on existing projects in which 4DS has an interest as at the Announcement Date; or
 - (B) capital expenditure in the day to day operating activities of the business of 4DS and its subsidiaries conducted in the same manner as before the Announcement Date.
- (xi) **No litigation on foot or pending**
- Between the Announcement Date and the end of the Offer Period (each inclusive), no litigation against 4DS which may reasonably result in a judgment of \$50,000 or more is commenced, is threatened to be commenced, is announced, or is made known to Fitzroy (whether or not becoming public) or 4DS, other than that which is in the public domain as at the Announcement Date.
- (xii) **Equal Access**
- Between the Announcement Date and the end of the Offer Period (each inclusive), 4DS promptly, and in any event within two Business Days, providing to Fitzroy all information that is not generally available (within the meaning of the Corporations Act) relating to 4DS or any of its subsidiaries, or their respective assets, liabilities or operations, that has been provided by 4DS or any of its directors, officers, agents or representatives to any person other than Fitzroy, other than in the ordinary course of ordinary business, for the purposes of soliciting, encouraging or facilitating any proposal with respect to:
- (A) a takeover bid for, or scheme of arrangement proposed by, 4DS, under the Corporations Act;
 - (B) the acquisition by that person or an associate of substantially all the assets and operations of 4DS; or
 - (C) any transaction having a similar economic effect.
- (xiii) **No prescribed occurrences**
- Between the Announcement Date and the date three Business Days after the end of the Offer Period (each inclusive), no Prescribed Occurrence occurs.
- (xiv) **No distributions**
- Between the Announcement Date and the end of the Offer Period (each inclusive), 4DS does not announce, make, declare or pay any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie).
- (xv) **No redemption of Preference Shares**
- Between the Announcement Date and the end of the Offer Period (each inclusive), no 4DS Preference Shareholder seeks to redeem any 4DS Preference Shares they hold.
- (xvi) **Escrow**
- Each 4DS Securityholder enters into such form of restriction agreement in respect of the Fitzroy Securities issued to them:
- (A) on completion of the Takeover Bids;
 - (B) under the Private Option Offers; or

(C) under the Private A Class Share Offers,

(as applicable) (including any Fitzroy Ordinary Shares issued upon satisfaction of the performance hurdle under the terms of the Class 1 Performance Shares) as ASX may require.

(xvii) Joint Development Agreement

Between the Announcement Date and the end of the Offer Period (each inclusive) the Joint Development Agreement remains on foot and has not been terminated for any reason.

(xviii) Ordinary Share Offer

Fitzroy obtaining a relevant interest in more than 90% (by number) of the sum of the 4DS Ordinary Shares on issue on or before the end of the Offer Period.

- (b) Each condition in Section 8(a) of this Annexure B is a separate, several and distinct condition, operates as a condition subsequent and is for the benefit of Fitzroy alone and may only be relied upon by Fitzroy.
- (c) All the conditions in Section 8(a) of this Annexure B are conditions subsequent. The non-fulfilment of any condition subsequent does not, until the end of the Offer Period (or in the case of any Condition that relates only to the happening of an event or circumstance referred to in Section 652C(1) or (2) of the Corporations Act, the end of the third business day after the end of the Offer Period), prevent a contract to sell Your 4DS Preference Shares from arising, but entitles Fitzroy by written notice to you, to rescind the contract resulting from your acceptance of this Offer.

9. Freeing the Offer of Conditions

- (a) Subject to Section 9(b) of this Annexure B, Fitzroy may free this Offer, and any contract resulting from its acceptance, from all or any of the Conditions in Section 8(a) of this Annexure B at its sole and absolute discretion by giving notice to 4DS declaring the Offer to be free from the relevant conditions specified in accordance with Section 650F of the Corporations Act.
- (b) Fitzroy may only waive the Essential Conditions with the prior written consent of 4DS (such consent not to be unreasonably withheld or delayed).
- (c) If, at the end of the Offer Period (or in the case of any Condition that relates only to the happening of an event or circumstance referred to in Section 652C(1) or (2) of the Corporations Act, the end of the third business day after the end of the Offer Period) the Conditions in Section 8(a) of this Annexure B have not been fulfilled and Fitzroy has not declared the Offer (or it has not become) free from those Conditions, all contracts resulting from the acceptance of the Offer will be automatically void.
- (d) Subject to the provisions of the Corporations Act, Fitzroy alone will be entitled to the benefit of the Conditions in Section 8(a) of this Annexure B and any breach or non-fulfilment thereof may be relied upon only by Fitzroy.

10. Notice of Status of Conditions

The date for giving the notice on the status of the Conditions required by Section 630(1) of the Corporations Act is 12 November 2015, subject to extension in accordance with 630(2) if the Offer Period is extended.

11. Quotation

- (a) An application will be made within 7 days after the start of the Bid Period to ASX for the granting of quotation of the Fitzroy Shares to be issued in accordance with the Offer. However, quotation is not granted automatically on application.

- (b) Pursuant to the Corporations Act, this Offer is subject to a condition that quotation is made for quotation of the Fitzroy Shares to be issued pursuant to the Offer in accordance with Section 11(a) of this Annexure B and permission for quotation by ASX (as the circumstances require) of the Fitzroy Shares to be issued pursuant to the Offer being granted no later than 7 days after the end of the Bid Period.

12. Withdrawal of Offer

Fitzroy may withdraw this Offer with the consent in writing of ASIC (which consent may be given subject to such conditions, if any, as are imposed by ASIC). If ASIC gives such consent, Fitzroy will give notice of the withdrawal to ASX and to 4DS and comply with any other conditions imposed by ASIC.

13. Variation

Fitzroy may vary this Offer in accordance with the Corporations Act at its sole and absolute discretion.

14. Stamp Duty or Other Costs

- (a) All costs and expenses of the preparation, dispatch and circulation of this Offer and any stamp duty payable in respect of the transfers will be paid by Fitzroy.
- (b) As long as Your 4DS Preference Shares are registered in your name and you deliver them directly to Fitzroy in accordance with the terms of this Offer, you will not incur any brokerage in connection with your acceptance of this Offer.

15. Governing Law

This Offer and any contract that results from your acceptance of this Offer is governed by the laws in force in Western Australia.

16. Date of Offer

This Offer is dated 8 October 2015.

Annexure C – Fitzroy's ASX Announcements

Fitzroy has lodged the following announcements with ASX since 20 August 2015 being the date on which the most recent audited financial statements of Fitzroy for the year ended 30 June 2015 were lodged with ASX:

| Date Lodged | Description of Announcement |
|-------------------|---|
| 7 October 2015 | ZNC: Develin Creek – Huntsman copper-zinc target upgraded |
| 21 September 2015 | Appendix 4G |
| 21 September 2015 | Annual Report to shareholders |
| 21 September 2015 | Notice of Annual General Meeting/Proxy Form |

Annexure D – 4DS Options

| Number | Class | Consideration to be offered under Private Option Offer | |
|------------------|---|--|---|
| 53,500 | options to acquire a 4DS Ordinary Share (each exercisable at US\$36.00 on or before 31 March 2017) | (a) | 0.9040560 Fitzroy Ordinary Shares; and |
| | | (b) | 0.1685528 Class 1 Performance Shares, per option |
| 5,000 | options to acquire a 4DS Preference Share (each exercisable at US\$10.00 on or before 31 March 2017) | (a) | 8.7827354 Fitzroy Ordinary Shares; and |
| | | (b) | 1.6374591 Class 1 Performance Shares, per option |
| 340,000 | options to acquire a 4DS Ordinary Share (each exercisable at US\$1.00 on or before 31 December 2017) | 36,458,333 Fitzroy Options (each exercisable at \$0.02 on or before 30 June 2020) in total | |
| 410,000 | options to acquire a 4DS Ordinary Share (each exercisable at US\$5.00 on or before 31 December 2017) | (a) | 31.4014999 Fitzroy Ordinary Shares; and |
| | | (b) | 5.8545169 Class 1 Performance Shares, per option |
| 10,000 | options to acquire a 4DS Preference Share (each exercisable at US\$5.00 on or before 31 December 2017) | (a) | 31.4014999 Fitzroy Ordinary Shares; and |
| | | (b) | 5.8545169 Class 1 Performance Shares, per option |
| 15,000 | options to acquire a 4DS Preference Share (each exercisable at US\$10.00 on or before 31 December 2017) | (a) | 17.2679740 Fitzroy Ordinary Shares; and |
| | | (b) | 3.2194528 Class 1 Performance Shares, per option |
| 22,500 | options to acquire a 4DS Ordinary Share (each exercisable at US\$10.00 on or before 30 April 2018) | (a) | 21.1047213 Fitzroy Ordinary Shares; and |
| | | (b) | 3.9347785 Class 1 Performance Shares, per option |
| 217,258 | options to acquire a 4DS Preference Share (each exercisable at US\$10.00 on or before 30 June 2018) | (a) | 23.0683812 Fitzroy Ordinary Shares; and |
| | | (b) | 4.3008846 Class 1 Performance Shares, per option |
| 164,524 | options to acquire a 4DS Ordinary Share (each exercisable at US\$10.00 on or before 31 October 2018) | (a) | 26.8275206 Fitzroy Ordinary Shares; and |
| | | (b) | 5.0017411 Class 1 Performance Shares, per option |
| 1,237,782 | | | |

Annexure E – Terms and Conditions of Fitzroy Class 1 Performance Shares

For the purpose of these terms and conditions:

Expert means a suitably qualified independent expert, selected and appointed by the Board of Fitzroy for the purposes of confirming that 4DS has achieved "endurance consistency" for the purposes of the Milestone.

Expiry Date has the meaning given in clause 1(c).

Holder means a holder of a Fitzroy Class 1 Performance Share.

Milestone has the meaning given in clause 1(b).

Performance Share or **Class 1 Performance Share** or **Fitzroy Class 1 Performance Share** means a performance share convertible into a Share upon achievement of the Milestone on or before the Expiry Date, issued on these terms and conditions.

Share means a fully paid ordinary share in the capital of Fitzroy.

1. Conversion and expiry of Performance Shares

- (a) For the purposes of the Milestone:
 - (i) **cell** means a 4DS ReRAM cell;
 - (ii) **current window** means the difference between the lowest "Set" state current and the highest "Reset" state current measured during an endurance test at the read voltage of -1.5V;
 - (iii) **cycle** means applying the appropriate voltages across a cell to either: (a) change its state from the "Set" state to the "Reset" state and back to the "Set" state, or (b) change its state from the "Reset" state to the "Set" state and back to the "Reset" state;
 - (iv) **decade** means a series of cycles where the ratio between the sequence of the last cycle in the series and the first cycle in the series is 10 (in this context, 4 current measurements per decade for example means measuring currents after cycles 1, 2, 4, 7 in the first decade from 1 to 10 and after cycles 100, 200, 400, 700 in the third decade from 100 to 1,000);
 - (v) **die** means a section of cells within a wafer;
 - (vi) **endurance test** in relation to a cell means alternating the "Set" and "Reset" voltage across the cell and either: (a) reading the state currents at the read voltage of -1.5V after each "Set" or "Reset", or (b) reading the state currents a limited number of times during each decade on a close to logarithmic scale. For a cell to **qualify an endurance test**, the highest "Reset" state current at the read voltage of -1.5V read during the endurance test must be no higher than 10nA and the current window must be at least 10nA;
 - (vii) **linear scale endurance yield** in relation to a wafer means the percentage of cells tested on the wafer that qualify the endurance test for the first 400 cycles;
 - (viii) **logarithmic scale endurance yield** in relation to a wafer means the percentage of cells tested on a wafer that qualify the endurance test for each cycle where the state is read (4 times per decade or 17 times for 10,000 cycles);
 - (ix) **lot** means a set of test wafers;

- (x) **POR** means the "process of record", i.e., the best known process for manufacturing a wafer at the relevant time;
 - (xi) **POR cell** means a cell which is manufactured in the then current "cell structure of record" and POR;
 - (xii) **state** means the current level measured at the read voltage of -1.5V which determines whether the cell is in the "Set" state (the high current state representing a logical "1") or the "Reset" state (the low current state representing a logical "0");
 - (xiii) **state current** means the current measured at the read voltage of -1.5V; and
 - (xiv) **wafer** means a very thin slice of a semiconductor crystal used as the substrate for solid-state circuitry.
- (b) **(Conversion on achievement of Milestone)** Upon Fitzroy announcing that the Expert has delivered a report to Fitzroy confirming that 4DS has achieved endurance consistency (the **Milestone**), each Class 1 Performance Share will convert into a Share on a one for one basis. **Endurance consistency** will be achieved on the first successful duplication of POR cells in two wafers on one or more lots (that are different lots from the lot that defines the POR), as measured by either:
- (i) linear scale endurance yields for 400 cycles where the state current is read after each cycle; or
 - (ii) logarithmic scale endurance yields for 10,000 cycles where the state current is read 4 times per decade,
- that are higher than or equal to 90% for each of the 2 wafers when including all POR cells with sizes up to 3 times the smallest cell size in at least 2 die per wafer.
- (c) **(Class 1 Performance Share Expiry Date)** The Milestone must be achieved on or before 5.00pm (WST) on 31 December 2018 (the **Expiry Date**).
- (d) **(No conversion)** To the extent that the Class 1 Performance Shares have not converted into Shares on or before the Expiry Date, then all such unconverted Class 1 Performance Shares held by each Holder will automatically consolidate into one Class 1 Performance Share and will then convert into one Share.
- (e) **(Conversion procedure)** The Share or Shares issued on conversion of a Performance Share will be issued to the Holder and Fitzroy will issue the Holder with a new holding statement for the Share or Shares as soon as practicable following the conversion of each Performance Share.
- (f) **(Ranking of shares)** Each Share into which the Performance Share will convert will upon issue:
- (i) rank equally in all respects (including, without limitation, rights relating to dividends) with other issued Shares;
 - (ii) be issued credited as fully paid;
 - (iii) be duly authorised and issued by all necessary corporate action; and
 - (iv) be issued free from all liens, charges and encumbrances whether known about or not including statutory and other pre-emptive rights and any transfer restrictions.

2. **Rights attaching to Performance Shares**

- (a) **(Share capital)** Each Performance Share is a share in the capital of Fitzroy.
- (b) **(General meetings)** Each Performance Share confers on a Holder the right to receive notices of general meetings and financial reports and accounts of Fitzroy that are circulated to shareholders. A Holder has the right to attend general meetings of shareholders of Fitzroy.
- (c) **(No voting rights)** A Performance Share does not entitle a Holder to vote on any resolutions proposed at a general meeting of shareholders of Fitzroy.
- (d) **(No dividend rights)** A Performance Share does not entitle a Holder to any dividends.
- (e) **(Rights on winding up)** Each Performance Share entitles a Holder to participate in the surplus profits or assets of Fitzroy upon winding up of Fitzroy, but only to the extent of \$0.0001 per Performance Share.
- (f) **(Not transferable)** A Performance Share is not transferable.
- (g) **(Reorganisation of capital)** If Fitzroy undertakes a bonus issue or there is a reorganisation (including, without limitation, consolidation, sub-division, reduction or return) of the issued capital of Fitzroy, the number of Shares to which the Performance Shares of a Holder can convert will be increased or decreased (as applicable) to the number of Shares which the Holder would hold if the Performance Shares had been converted to Shares before the record date for the bonus issue or reorganisation.
- (h) **(Quotation of shares on conversion)** An application will be made by Fitzroy to ASX for official quotation of the Shares issued upon the conversion of each Performance Share within the time period required by the Listing Rules.
- (i) **(Participation in entitlements and bonus issues)** A Performance Share does not entitle a Holder to participate in new issues of capital offered to holders of Shares, such as bonus issues and entitlement issues.
- (j) **(No other rights)** A Performance Share does not give a Holder any rights other than those expressly provided by these terms and those provided at law where such rights at law cannot be excluded by these terms.